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The Southwestern Social Science Quarterly

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Public Opinion and Civil Liberties in Wartime 1917-1919*

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The influence of public opinion in extending or restricting civil liberties has long been recognized by students of law and government. But so long as government was weak and its administrative functions poorly organized, the potentialities of propaganda not recognized and public opinion divided, interferences with personal liberties were usually sporadic in character and probably did not affect the foundations of constitutional government.

The years of the First World War probably furnish the most profitable period in our history to observe the relationship between public opinion and the restrictions upon individual liberties which had been commonly regarded as automatically protected by the Bill of Rights. During the period, almost every conceivable form of propaganda and coercion was employed on a scale sufficiently wide to be noticeable. Public opinion became highly unified, and one might almost say that it was nearly hysterical at times. These events were concentrated within a short period, so that the war years furnish a kaleidoscopic view of experiences which at other times would require years of history to unroll.

The techniques of the control of public opinion were but dimly understood in 1917, and probably no one at the outset had any conception of an overall pattern which could be employed effectively. But in this time of crisis and emotional stimulation a pattern does emerge through the fact that from time to time, and in one section of the country or another, every means then known was tried in swaying public opinion and in silencing those whose views differed radically from the unified majority.

*The writer wishes to express his gratitude to The Social Science Research Council and its Southern Committee and to the Oklahoma A & M College Social Science Research Council for grants-in-aid of research, a part of which is embodied in this article. A second article, dealing with freedom of the press in the same period, is scheduled for an early issue of this Quarterly.

-I-

Within a few months after the Declaration of War on April 6, 1917, the use of pressure tactics to coerce the minority into line had reached a high state of refinement. At the center of the periphery of pressure groups was the state council of defense with its county and local councils. Usually it was closely allied with the state units of the federal agencies, such as the Liberty Loan Committee, Food and Fuel Administrators, and the like. Some of the councils were statutory bodies, but slightly more than half of them were created simply by appointment of the governor, and hence had no more actual authority than he was able to delegate to them. On the whole, however, any distinction between the statutory and non-statutory councils is largely an artificial one. In general, one might say that lack of legal authority was no great handicap to a determined state council which understood the potentialities inherent in the war psychosis.

This power was recognized quite generally, and occasionally is stated naively. For example, the South Dakota Council of Defense sent a circular letter to the county councils in which it made specific reference to the fact that some persons had refused to subscribe to the amount of Liberty Bonds which had been apportioned to them by committees. "Such persons," the letter stated, "come under our classification as slackers," and where they can afford to take a certain amount of bonds "can justly be suspicioned as being in opposition to the policy of our government." And more specifically the letter went on to state that: "*There is no law upon our statute books governing such cases, but in these times there is a recognition of authority that has the right and power to inquire into the general conditions and reasons. . . .*" The county councils were advised to subpoena the delinquents and interrogate them about their ability to buy bonds.¹

The same attitude was shown in a smaller sphere by the chairman of one county council in Oklahoma, who announced that he was going to make it his duty to determine what securities were necessary to the conduct of the war. Salesmen for those which were not, would find other jobs or be asked to leave the county. He stated that until the legislature enacted laws to weed out "unnecessary and unreliable corporations," which he was sure would be done at the next session, "it is the duty of patriotic men of Oklahoma to defend their neighbors against misguidance."²

¹Dated April 30, 1918. Council of National Defense papers. The National Archives. (Hereafter cited as CND.) Incidentally, the South Dakota Council was a statutory body with broad powers. Italics are the writer's.

²*Daily Oklahoman*, July 21, 1918. For further details with respect to Oklahoma, see O. A. Hilton, "The Oklahoma Council of Defense and the First World War," *Chronicles of Oklahoma*, March 1942, 31-40.

The operations of the Food Administration reflect much the same point of view. From the official history of the Food Administration, we quote:

The penalties for the violation of the law against profiteering were stricken out by Congress, and therefore legal action became a matter of withdrawal of license or some public expression of contrition or some sale of food at nominal consideration to the government departments such as the Army or Navy or the Grain Corporation. Such contributions to the Red Cross and other charities exceeded \$500,000, and the value of the food sold to government departments at a nominal consideration exceeded \$1,000,000. The flour millers entered into agreement to turn over any profits in excess of agreed amount by a nominal sale to the Grain Corporation, and such receipts exceeded \$6,000,000. All together, 8,800 cases were handled by the Enforcement Division in Washington in which some penalty was inflicted.³

In other words, the agency deemed certain controls to be necessary although Congress had refused to provide these through authorizing penalties, and consequently the administrators must find some means of enforcing their edicts. This they did either by bringing public pressure to bear so strongly on offenders that the latter dared not disobey the orders of the food administrators and paid fines to the Red Cross or other agencies, or by compelling the wholesalers and jobbers to refuse to sell to offending retailers under threat of having their licenses revoked.

Whether in relation to financial drives, food, or unpopular utterances, pressure and intimidation were widely used with little regard to legal or constitutional rights, or their implications for the democracy we claimed to be fighting a war to preserve. Certain so-called Russian colonies in South Dakota, which were incorporated for religious purposes, refused to buy Liberty Bonds. It was charged that a local Liberty Loan committee, upon the colonists' refusal to purchase bonds, seized some of their stock and sold it at public auction.⁴ Apparently the group ultimately gave way under pressure, agreed to dissolve, and invest the proceeds of the communal property sale in bonds, which would be divided among the members according to a disposition to be made by the state council of defense.⁵

The New Mexico Council sent a circular letter to the county councils which strongly hinted that they should follow the example of the Guada-

³W. C. Mullendore, *History of the United States Food Administration 1917-1919* (Stanford: Stanford University Press, 1941), 18-19. See also Chap. XIII on control over unlicensed retailers. Italics are the writer's. For examples of the methods used by the Food and Fuel Administrations and other agencies, see J. R. Mock, *Censorship* (Princeton: Princeton University Press, 1941), 25-28.

⁴Letter, Chief of the State Council Section, Council of National Defense, to Lewis B. Franklin, Treasury Department, June 5, 1918. CND papers.

⁵Minutes South Dakota Council, June 20, 1918. CND papers.

loupe County Council. The latter had sent letters to individuals informing them that they had uttered remarks unbecoming to a person "enjoying the Liberty and Protection of the United States," and "emphatically that such conduct will not be tolerated." Furthermore, a second complaint would bring such remedy "as is necessary to counteract seditious conduct, and we are acting under orders given us by the Governor. . . ." The offender was also reminded that he would "be kept under surveillance from this time on, and our action depends entirely upon your department."⁶

In many places census cards were used on which were listed the wealth of the individual (usually estimated, although sometimes obtained by canvass,) his investment in Liberty Bonds and War Savings Stamps, contributions to the Red Cross, Y. M. C. A., and other agencies, as well as other information. From these the councils, Liberty Loan committees and other war boards arranged individual quotas and determined whether a man was doing his "fair share." The following extract from a report of the War Service Board of Council Bluffs, Iowa, on the Second Liberty Loan illustrates the effectiveness of the assessment method. "One township in this county, whose quota was \$50,000, reported but \$15,000, was shown the light, made a recanvass and returned triumphantly in a few days with \$67,000 having simply made an assessment of so much per acre on every farm and gone out and collected it."⁷

In many communities, including Council Bluffs, above mentioned, "courts" were set up before which were brought those who refused to accept the quotas fixed for them, and also in many cases those who had made utterances which jarred the sensibilities of the patriots or perhaps those who had actually uttered seditious remarks, though these were more likely to be reported to federal authorities. Legal appearing summons, which of course had no legal status whatever, were probably sufficient to convince most offenders that they should surrender to the demands made upon them when they appeared before the "court." Certain communities, of which Milwaukee would be a good example,⁸ were particularly sensitive to the reputations they had in other parts of the country and used arbitrary means to raise more funds than their quotas called for, in order to prove their patriotism. Other towns threatened to place the names of recalcitrants on a Dishonor Roll which would be exhibited in a

⁶Dated Aug. 25, 1917, with enclosure. CND papers.

⁷CND papers, n. d., but received Aug. 4, 1918.

⁸See Charles D. Stewart, "Prussianizing Wisconsin," *Atlantic Monthly*, Jan. 1919, 99-105; also letter from the Wisconsin Council of Defense to Col. Henry Watter-son defending the state, in answer to an editorial appearing in the *Louisville Courier Journal* in which Wisconsin was cited as lacking in patriotism and the question raised as to whether after the war it would not be known as a "traitor state." Dated July 25, 1917. State Council of Defense papers, Wisconsin Historical Society.

prominent place. To classify a merchant as a "pro-German" or a "slacker" was sufficient to ruin his business in many localities; and refusal to take the amount fixed might place him in one or another category. Stories of merchants appearing in the morning to find their store fronts painted yellow were not too uncommon over the country. While in many cases such jobs may have been the work of hoodlums of rather tender age, nevertheless the value of such acts to competitors is obvious.

In the Northwest the Nonpartisan League had a phenomenal growth among the farmers just preceding the entry of the United States into the war and during the first few months of hostilities. Its grievances were chiefly economic and were directed against the millers and other middlemen. The League regarded the old parties as being aligned with the "vested" interests and turned to politics to secure control entirely. Its program was a form of agrarian socialism, and hence it was rather natural that the League leaders should have had something of the same attitude toward the war that many members of the Socialist Party had, i. e., it was a rich man's war and a poor man's fight. This attitude was not expressed clearly, however; instead the League demanded reforms of the tax structure and other changes which opponents claimed was for the purpose of dividing the people in their support of the war. Though its grievances were chiefly economic in character, its questioning of motives in the war and methods of paying for it made its patriotism and loyalty subject to grave doubts by its enemies.⁹ The rapid growth of the League in Minnesota and its political activities threatened to end the conservative Republican control of the state government in the fall election of 1918. Urban interests in many Minnesota towns took a most intolerant stand against the League organizers. The Minnesota Commission of Public Safety, probably the most powerful state council in the nation, accepted the view that the organization was disloyal; but instead of trying to persuade the members to change their views they attempted to crush the League—and succeeded to a remarkable degree.

The Wilson administration became convinced that the situation in the Northwest was dangerous. The administration leaders feared an explosion might occur in the Northwest, particularly in Minnesota, unless measures were taken to settle the grievances and change the attitude of the farmers. Consequently, through the Committee on Public Information and the Council of National Defense, plans were made to route speakers through the section under the auspices of the Nonpartisan League. The Public

⁹See A. A. Bruce, *Non-Partisan League* (New York: The Macmillan Co., 1920); H. E. Gaston, *The Nonpartisan League* (New York: Harcourt, Brace and Co., 1920); C. E. Russell, *The Story of the Nonpartisan League* (New York: Harper & Bros., 1920); and files of the *Nonpartisan Leader*, official newspaper of the organization, originally published at Fargo, North Dakota and later at St. Paul, Minnesota.

Safety Commission refused to permit them to speak under such auspices, but asked to use the speakers themselves.¹⁰ Though perhaps maintaining an officially correct position, the Safety Commission indirectly encouraged the use of force and other arbitrary tactics against the League. The files of the Safety Commission contain many accounts of actions by the county commissions and peace officers prohibiting or breaking up Nonpartisan League meetings. Instead of repudiating such tactics, the State Commission followed some such procedure as the following. A county commission of public safety would notify the state body that A. C. Townley, or another of the leaders, was scheduled to address a meeting in a certain town at a specified date, and inquire if the Commission could prevent it. The Safety Commission would reply that it had no power to prevent the meeting, but would then cite the provisions of the Minnesota statutes which provided that the sheriff of a county had authority to prevent any meeting which in his opinion would result in violence and disorder. With that broad hint, it was rather easy to make arrangements which would insure that disorder would result, and to persuade the sheriff that the meeting should be prohibited. In one case, Mr. Townley was notified not to speak in the county and was informed that "if you persist in trying to talk here we have made arrangements with our Mayor who has given orders to the police force not to interfere if small boys (and others) use ancient eggs and other missiles wherewith to punctuate your discourse."¹¹

¹⁰For one case, that of Dixon C. Williams, see telegram Charles W. Henke, Publicity Director, Minnesota Commission of Public Safety, to Arthur E. Bestor, Director Speaking Division, Committee on Public Information, March 28, 1918; telegram, Bestor to Henke, March 29, 1918; telegram Henke to Bestor, March 30, 1918; telegram Bestor to Henke, April 1, 1918; letter, J. A. Krall to Minnesota CPS, March 27, 1918; all in Minnesota Commission of Public Safety papers, Minnesota Historical Society, St. Paul; and letter, Dixon C. Williams to President Wilson, April 3, 1918, in Wilson papers, Library of Congress. George Creel, Chairman, Committee on Public Information, wrote in a memorandum to President Wilson that, while he resented the terrorism practised, they could not afford "an open break with state authorities." He stated further that the League was a loyal organization but the Safety Commission was willing to drive it into disloyalty "in order to further its own mean political end." Dated April 2, 1918. Woodrow Wilson papers. See also R. S. Baker, *Woodrow Wilson, Life and Letters* (New York: Doubleday, Doran & Co., 1939), VII, 75.

¹¹Letter, Louis Keane, Secretary, Ottertail County Public Safety Association to A. C. Townley, Oct. 3, 1917, copy sent to Minn. Public Safety Commission. The reliance of the county commissions upon their own powers also is indicated by the resolution passed on April 3, 1918, by the Murray County (Minn.) commission of public safety. It provided that "On and after . . . April 4th, people not bona fide residents of Murray County, be barred from addressing meetings of the Nonpartisan League or in any way encouraging or promoting the interests thereof." The sheriff of the county was directed to see that the resolution was strictly enforced, and to serve notice on the League organizers "that no work of any kind can be done in this county until after the war by outside men." H. G. Teigen papers, Minnesota Historical Society.

The Montana State Council ordered the public schools to cease using a textbook on Ancient History written by Professor Willis Mason West, because he gave too favorable a treatment of the Teutonic tribes prior to the year 812 A. D. At the time, West was assisting the Committee on Public Information.¹² The Oklahoma Council prohibited travelling shows from exhibiting in the state.¹³ The Texas Council instructed the county councils to discourage the use of trading stamps by merchants, although there was no state statute covering such action.¹⁴ Many state councils agitated against the German language and in several cases openly, or in effect, prohibited its use in the schools or other public places. The Governor of Iowa prohibited the use of all languages except English in schools and churches and in conversations in public places.¹⁵ The South Dakota Council prohibited the use of German in public places, with one exception—it would issue permits for its use at funerals.¹⁶

Although there is no record of its actual use, the potentialities of utilizing the legal machinery for intimidation are illustrated by the following incident. An Iowa lawyer who was "chairman of the Waterloo Council of Defense; one of the judges of the American Defense Society branch, viz: Waterloo Vigilance Corps, and Judge Advocate of the Waterloo Service League," and whose duties in all of these organizations was "to pass upon the loyalty of suspected persons," complained to the United States District Attorney that his organizations were having considerable difficulty with the disloyal because they could not enforce their judgments. He was certain that disloyalty was increasing, and that the law was inadequate to deal with pro-Germans. Since it seemed impossible to get evidence upon which to convict the culprits he suggested that if the latter were put under heavy bond to appear before grand juries, or in default were committed, "such pro-German influence would soon subside." The District Attorney promised the "Judge" that if he had a "real objectionable man . . . and there is a 'peg' at all upon which to hang a charge I will institute the proceedings." Ultimately the correspondence reached the Department of Justice which referred it to the Council of National Defense. The latter informed the

¹²See correspondence between the Montana Council and the Council of National Defense in May 1918 (in CND papers), and the Committee on Public Information, in Committee on Public Information papers (hereafter cited as CPI), The National Archives. The State of Montana enacted one of the severest sedition laws of any state, one which was used as a basis for the federal Sedition Act of May 16, 1918.

¹³See *Sooners in the War* (State Council publication), Jan. 4, 1919, 53; also correspondence in CND and CPI papers in June 1918.

¹⁴See correspondence between Council of National Defense and the Texas State Council, and the Sperry and Hutchinson Company. CND papers.

¹⁵See Judge Martin J. Wade to Joseph P. Tumulty, Sept. 24, 1918. Woodrow Wilson papers; also files of CND and CPI papers.

¹⁶By order No. 4; letter, S. Dak. Council to Council of National Defense, June 6, 1918. CND papers.

"Judge" that the District Attorney could, of course, have anyone arrested for violation of the Espionage Act, and he would then be held upon bail for indictment. "Whether the Federal District Attorney will issue such warrants of arrest without having proofs sufficient in his judgment to bring about conviction rests in his discretion. There is nothing in the law which prohibits him from such action; on the other hand, there is nothing which compels him to take this action."¹⁷

The state councils frequently represented the most intolerant points of view. By warring on the German press and language, circulating loyalty pledges, helping to spread fear of spy activities, and encouraging or condoning excesses of the extremists, they aided in arousing the sort of spirit which made it unwise in some sections even to have a dachshund trailing one's heels.¹⁸ They became imbued with a sense of their own power and duty which transcended legal limitations, and which only the rash or the extremely courageous dared to challenge.

But not all forms of pressure are traceable to the councils. They were of all kinds and emanated from many sources: individual and group, conscious and unconscious, organized and unorganized. For example, M. S. Eccles of Logan, Utah, complained to the United States Forestry Service that men who were making great profits through permits to graze their cattle on the Cache National Forest refused to purchase more than a fifty or one-hundred dollar Liberty Bond. He requested that something be done to exclude them from the range unless they showed a "better attitude," and allow patriotic cattlemen to have the fall privileges. The Forestry Service replied that "other things being equal" the Department of Agriculture would "give preference to persons who have subscribed for Liberty Bonds to an amount considered reasonable."¹⁹

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In time of war or other crisis, when public opinion is largely unified and emotions rather than reason so greatly influence human attitudes and conduct, intimidation by mob action may become widespread. The spirit of the great West is portrayed by the secretary of one of the New England State Councils of Defense, who was sent by the National Council on

¹⁷Letters are dated between March 8 and April 16, 1918 (before the enactment of the Sedition Act on May 16, 1918). CND papers.

¹⁸See for example the experiences recounted by Oswald Garrison Villard, *Fighting Years: Memoirs of a Liberal Editor* (New York: Harcourt, Brace & Co., 1939), 328-330.

¹⁹Telegrams, Eccles to H. S. Graves, Oct. 15, 1918, and A. F. Potter to Eccles, same date. Forestry Service files, The National Archives. Eccles signed telegram as Mayor of Logan. In *Who's Who*, he makes no mention of having been Mayor, but states he was Chairman of the Logan Council of Defense and of a Liberty Bond Committee.

a trip to check up on the western councils and hold patriotic rallies. Of Butte, Montana, he wrote:

The spirit of Butte is fine, so far as I could gather. Indeed the workman who is not behind the war seems to be a sort of scab. Certain whilom vocal and influential citizens of Butte, who had exhibited pro-German and Anti-War sentiments, have been used for decorative purposes in connection with bridges, trestles and lampposts and other objects in the bleak landscape. The men of Butte are of a practical turn of mind.

He was even more delighted with Nevada, and gave the following as a rough paraphrase of a report made to the Governor by one of the sheriffs.

I regret to report to your excellency that on such and such a date such and such a person was forcibly taken from my possession by parties unknown. He was placed on trial before an improvised tribunal and found guilty of lukewarmness toward the cause of the United States and her Allies. Thereupon, your Excellency, I regret to report to you that said unknown persons proceeded to strip said party to the waist and applied to his person a coating of black substance, which I am told was tar. Thereafter, they applied to the surface thus covered, a coating which, I am told, was feathers; whereupon they forcibly applied to his person the toe of their boots and instructed him to leave the country, telling him that if he ever came back they would lynch him—and if he does, by God, Governor, *we will!*

Governor Boyle said he thought some of the boys were "pulling a little rough stuff," but it all helped the cause.²⁰

While it is unlikely a western sheriff would have used such indirect language, the description could be applied to other sections of the country.

Law observance perhaps has never been the most striking quality of the American people, but during the World War it reached a new low in the use of violence in dealing with individuals and certain groups. Once an individual or group was identified with pro-German leanings or utterances, interested parties could organize a mob to take summary action against them. In the summer of 1921, the writer was in a small Nebraska town in which a large proportion of the population was of German nationality. Some of the older people still would not converse in English (if they could) with a stranger, even after having gone through the rigors of war treatment. In reply to a question as to how they handled the German group during the war, a young business man replied in effect: "Oh, we didn't have much trouble with them. If one of them got too obstreperous, we would just ride him up and down the street on a rail, and make

²⁰Dated June 13, 1918. CND papers.

him kneel and kiss the flag. Or if he was too bad, we might add a coat of tar and feathers. After that he wouldn't give any more trouble." That the particular town, but not for many sections of the country. In such simple ways as this were loyal citizens to be made of the disloyal.

Mob violence occurred in many widely separated places, but probably was most prevalent in the Middle West and Rocky Mountain regions. One of the most notorious incidents occurred in Illinois, when, following his acquittal on charges of violation of the Espionage Act, Robert Paul Praeger was seized by a mob and lynched. The Reverend Herbert Bigelow, later a member of Congress from Ohio, was kidnapped and horse-whipped by a mob in Kentucky. The I. W. W.'s suffered from mob violence in many places. Vigilantes rounded up about 1,200 persons around Bisbee and Jerome, Arizona, loaded them on cattle cars and shipped them out in the desert. Many were not I. W. W.'s, but all might have perished from hunger and thirst if supplies had not been sent from United States Army stores. Frank Little was hanged from a trestle at Butte, Montana. Seventeen men who were charged with being I. W. W.'s were taken from the police of Tulsa, Oklahoma, by a hooded mob of "Knights of Liberty" who beat them, poured hot tar on their wounds and drove them from the city. The I. W. W. headquarters in Los Angeles was wrecked by a mob. These are only a few examples of the many which could be cited of mob violence.²¹

Apparently there is a widespread assumption that democracy is of and in itself a form of government which will assure justice to everyone. The framers of the Constitution had no such illusions, nor did those who led the fight for the first ten amendments. As a matter of fact a democracy, or what passes for a democracy in the common though loose terminology of the present day, may be the most tyrannical of governments. Under favorable circumstances, at least, unscrupulous politicians and interested propagandists can play upon the emotions of the crowd and sway it almost to hysteria. Under the spell of such feeling the people may demand more stringent legislation, and failing that, resort to illegal methods of silencing the opposition and thus force the government to decree as illegal the very acts the mobs have been punishing by summary

²¹See Helen Keller, "In Behalf of the I. W. W.," *The Liberator*, March 1918, 13; National Civil Liberties Bureau, *War-Time Prosecutions and Mob Violence* (pamphlet, New York, 1919); *New York Times*, Aug. 2, Sept. 27, and Nov. 11, 1917; *St. Paul Pioneer Press*, Sept. 26, 27, 1917; *Tulsa World*, Nov. 10, 1917. Many examples of direct action against the I. W. W. are given in the doctoral dissertation by E. Foster Dowell, *A History of Criminal Syndicalism Legislation in the United States* (Johns Hopkins University, 1936), a manuscript copy of which the author kindly permitted this writer to see. A condensed version was published under the same title in *The Johns Hopkins University Studies in Historical and Political Science*, LVII (Baltimore: The Johns Hopkins Press, 1939).

action. There had been disrespect for law, outbreaks of one sort or another, and decided tendencies for citizens to take the law into their own hands before the war, of course. But during this period there was an extensive disregard for the limitations of law, even among the "best" citizens of American communities. It extended to, and often was fostered by official bodies representing the state or federal governments. These bodies no doubt believed that they were above the law.

Through propaganda and the whole effects of the war, the great majority of the people became convinced that we were fighting a holy war in which democracy, freedom, Christianity, and "all that we hold near and dear" were at stake. Probably most people would have agreed with Arthur Train who wrote for the National Security League:

If Germany wins the war the United States will either be paying tribute to the Kaiser or German soldiers will be bayoneting American girls and women in Jersey City rather than take the trouble to shoot them.²²

The crusading spirit seldom begets tolerance.

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The prevalence of war emotions was reflected in a widespread fear that swarms of German spies were infesting the country. The fear arose and grew despite lack of evidence, and in spite of the large array of federal, state and local investigative and enforcement officers. If one tasted grit while eating oysters, a German spy had put ground glass in the food. An outbreak of anthrax in cattle was caused by German spies planting the germs. Fireflies flickering their luminous tails over the swamps at nightfall were giving signals to German spies.

The emotional state indicated by the spy mania, as well as the lure which secret organizations have for Americans, resulted in the creation of several private organizations for suppressing sedition and apprehending spies, all of them an "outgrowth of good motives and manned by a high type of citizens." The most noted of these was the American Protective League, which secured the recognition of the Department of Justice. It enrolled some 250,000 citizens in the grim business of spying on their neighbors for evidence of sedition and treason, rifling their office correspondence and searching their homes without benefit of search warrants—but in the name of patriotism and national defense. John Lord O'Brian, Chief of the War Emergency Division of the Department of Justice, paid tribute to the work of the organized spy-chasers in awakening the country to the dangers of "insidious propaganda," but, he says, "no other cause contributed so much to the oppression of innocent men as the sys-

²²*What German Victory Would Mean* (n.p., n.d.), pamphlet contributed to the League's Campaign of Patriotism Through Education.

tematic and indiscriminate agitation against what was claimed to be an all-pervasive system of German espionage." He was also unpleasantly impressed by "the insistent desire of a very large number of highly intelligent men and women to become arms of the Secret Service and to devote their time to the patriotic purpose of pursuing spies."²³ George Creel summed up the espionage situation in the following language: "Never was a country so thoroughly counter-espionaged. Not a pin dropped in the home of any one with a foreign name but that it rang like thunder on the inner ear of some listening sleuth."²⁴ The fact that the spy scare was largely a figment of the collective imagination was an irrelevant matter at the time. The importance of the phenomenon lies in the fact that it increased the attitude of intolerance of the people toward any who were not of the "100 percenters," and added to the persecution of innocent men and women."

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Considering the state of the public mind it is not surprising that legislation was enacted which granted far-reaching powers to government, that administrative officials sought means of extending their powers in ways which would seem questionable in more normal times, and that the courts were frequently extreme in interpreting the laws and in upholding the administrative decisions of executive officials. Prosecutions for trea-

²³*Civil Liberty in War Time*, 65 Cong., 3 Sess., Sen. Doc. 434, 5. Emerson Hough, *The Web* (Chicago: The Reilly & Lee Co., 1919), is a sort of official history of the League. See especially pp. 163 ff; also files of the League's confidential bulletin, *The Spy Glass*. O'Brien, *op. cit.*, pp. 5, 11-12, hints that he regretted the recognition accorded by the Department of Justice. Attorney-General Gregory, on the other hand, praised the League highly. See *Annual Reports*, for 1917, 641; for 1918, 15; for 1919, 83. Secretary of the Treasury, McAdoo, favored unification of all the investigative bodies of government under one head. He was particularly caustic about recognition afforded the APL, and especially its use of "Secret Service" to refer to its operatives. He wrote Gregory that in some places "... for 75 cents or \$1 membership may be obtained in this volunteer organization and authority conferred, with the approval of the Department of Justice, to make investigations under the title of 'Secret Service'." The controversy is briefly treated in Homer Cummings and Carl McFarland, *Federal Justice* (New York: The MacMillan Co., 1937), 422. Correspondence related to it is in the Woodrow Wilson papers (April and June 1918).

²⁴"Our Aliens—Were They Loyal or Disloyal," *Everybody's March* 1919, 37. Attorney-General Gregory stated that "the country has never been so thoroughly policed by the Federal authorities as it is today." *New York Times*, April 16, 1918. O'Brien, *op. cit.*, 11, summed up the Department's view of the spy situation as follows: "After the draft act went into active operation the power of the so-called German propaganda rapidly declined and within six months lost all degree of effectiveness. Secret Service reports demonstrate this beyond doubt and also show how impossible it was, after the first six months of our active participation in the war, for the enemy governments to accomplish anything here in a large way through the operations of spies or secret agents."

son were instituted but no convictions were obtained. Naturalization papers were revoked, even in the cases of citizens who had been naturalized two or three decades earlier.²⁵ The Threats Against the President Act, as the courts interpreted it, came near to creating a crime of *lèse majesté*.²⁶ Several states passed sedition acts. These acts, however, illustrate few features of the influence of public opinion upon civil liberties that are not indicated by the Espionage and the Trading with the Enemy Acts, and in the interest of brevity may be omitted from this discussion.

The Espionage Act was the most important war time statute for curbing ideas and their utterance.²⁷ Because of a stringent censorship provision which President Wilson insisted upon having incorporated, the Espionage Bill precipitated a long and acrimonious debate that revealed how lightly some members of Congress regarded the constitutional guarantees of individual rights if these promised to restrain at all the war-making powers of government. Many Congressmen indicated their complete willingness to abrogate the First Amendment for the duration of the war, with little discussion of the possible effects of such action upon our own democracy, when, according to the popular view, we were fighting the war to make the world safe for democracy. Legal maxims were cited to support the contention that in time of war the Constitution is suspended to the extent that acts committed in violation of it are acquiesced in by the people.²⁸

The opponents of a censorship centered their arguments largely on the contention that the Constitution prohibited Congress from putting previous restraint on speech or the press. As with libel, there was freedom to express whatever seemed pertinent, but the press or the speaker could then be held accountable. The provisions of the act indicate that this interpretation was adopted in the final draft of the bill.

The Espionage Act was an omnibus bill which covered many features

²⁵See *Report of the Attorney General of the United States for 1918*, 747-749; *U. S. v. Wursterbarth*, Interpretation of War Statutes, Bull. 97; *U. S. v. Darmer*, *ibid.*, Bull. 99, and 249 Fed., 989; also the *Official Bulletin*, June 15, 1918 for account of the case of Carl Swelgin (who was the first denaturalized citizen to be interned). This procedure was one means of reaching offenders who had not violated war time statutes, before enactment of the Sedition Act in May, 1918, but whose utterances were objected to by the patriots of the time.

²⁶Approved Feb. 14, 1917, 39 Stat., 919. See *U. S. v. Marion Clark*, Int. War Stat., Bull. No. 101; *Ragansky v. U. S.*, 253 Fed., 644.

²⁷Approved June 15, 1917, 40 Stat., 217. The amendment to the Espionage Act commonly known as the Sedition Act, approved May 16, 1918, imposed more severe restrictions. It was however of lesser importance, at least in the number of prosecutions instituted, probably because most of the intransigents had been disposed of under the original act, state laws, pressure tactics, tar and feather and hemp parties, or through "educating" the lukewarm to the issues of the war or to the dangers of violating the laws.

²⁸*Cong. Rec.*, 65 Cong., 1 Sess., April 18, 19, 1917.

of the war situation. Only Titles I and XII apply to this discussion. Section 3 of Title I provided that:

Whoever, when the United States is at war, shall willfully make or convey false reports or false statements with intent to interfere with the operation or success of the military or naval forces of the United States or to promote the success of its enemies, and whoever, when the United States is at war, shall willfully cause or attempt to cause insubordination, disloyalty, mutiny, or refusal of duty, in the military or naval forces of the United States, or shall willfully obstruct the recruiting or enlistment service of the United States, to the injury of the service or of the United States, shall be punished by a fine of not more than \$10,000 or imprisonment for not more than twenty years, or both.²⁹

Thus the Espionage Act was intended to and did operate against organized propaganda, deliberately organized and intentionally carried on. It was not intended to reach those who made impulsive and casual remarks which, though arousing the ire of super-patriots, particularly, were not made with intent to interfere with the operation of the military and naval services, cause insubordination, or obstruct the recruiting service. It is quite likely, however, that many persons actually opposed to the war did push their activities to the very limits of the statute, but took care not to go beyond. To the non-legal minds of extremists, however, every utterance in the nature of criticism was a violation of the statute, particularly if it were uttered by someone with a foreign-sounding name or someone identified with one of the radical organizations, or by someone personally offensive. Many self-appointed guardians of the patriotism of their respective communities sent accounts of every suspected case to the nearest federal district attorney. Failing to get action there, they put pressure upon their state council of defense or upon the Council of National Defense. As a last resort, and sometimes as a first resort, they organized mobs to beat the offender, tar and feather him and make him kiss the flag—and in some cases had recourse to lynching. Some district attorneys were severely criticized, it appears, because they refused to bring action in cases which were exasperating to the patriots, but which did not fall within the prohibitions of the law.³⁰ Influential citizens wanted

²⁹40 Stat., 219.

³⁰For example, those at Madison, Wisconsin, and Butte, Montana. The former had difficulties over sane treatment of the German population, and the latter because he would not take more drastic action against the I. W. W. There is considerable evidence of this sort, though it is scattered through the files of the Wisconsin Council of Defense, Wisconsin Historical Society, the U. S. Conciliation Service, U. S. Department of Labor, and the Council of National Defense.

anyone who was guilty of an offensive statement about the war incarcerated for the duration.³¹

John Lord O'Brian has stated that on the whole the courts were fair and impartial in hearing cases under the war statutes. In a general way, he probably is correct. On the other hand, particularly after the enactment of the Sedition Act, he complained of the great number of complaints which flooded the Department of Justice, and deplored the tendency of so many people to dignify with demands for prosecutions incidents which were hardly more than saloon squabbles or neighborhood quarrels.³² About two weeks before the Armistice, the Attorney General attempted to curb the tendency of certain district attorneys to cater to the super-patriots by urging indictments in some cases not justified by law. He issued instructions that the evidence must be submitted to the Justice Department for decisions before instituting action against anyone under the war statutes.³³ Evidence was unearthed later, however, which showed that some of the district attorneys disregarded the instructions.³⁴ And since even the Department of Justice reported many of the more extreme cases in its *Interpretations of War Statutes* bulletins, so as to indicate to the district attorneys the extent to which the law could be used for curbing agitation and talk, it does not seem unfair to outline here the extremes of law enforcement, and the prejudices of the judges and juries. This subject of law enforcement, particularly of the Espionage act, has been discussed elsewhere more than any other matter treated in this article; hence it will be covered briefly and with little attempt to portray the intricacies of the facts of the cases themselves.

The provisions of the Espionage Act were broad and vague. Clearly the law did not cover every criticism of government or lack of sympathy with the war. Consequently, much depended upon whether the court construed the law strictly as it does the usual criminal statute or whether

³¹For example, Theodore Roosevelt's editorials in the *Kansas City Star* expressing pungent criticism of the administration and its conduct of the war aroused considerable ire and brought demands that he be silenced. A number of these letters are in the Woodrow Wilson papers. Postmaster General Burleson stated that "The Post Office has received possibly more complaints from the public alleging that Mr. Roosevelt's articles were in violation of the Espionage Act than it has against the Hearst papers. No matter published by either Mr. Roosevelt or Mr. Hearst has come to my attention which, in my opinion, warranted action by the Post Office Department under the Espionage Act against either of them." Post Office Department news release dated (in pencil) May 5, 1918. From copy in CND papers.

The Department of Justice archives for the period remain closed, hence it is impossible to state whether pressure was applied upon the Attorney General to silence rabid Republican partisans.

³²*Civil Liberties in War Time*, op. cit.; see also *Report of the Attorney General* for 1918, 23.

³³*Report of the Attorney General* for 1919, 631.

³⁴Cummings and McFarland, *Federal Justice*, 426.

it construed it loosely. Only a succession of court decisions made under pressure of public opinion could fully confuse the issue as to what were the ultimate limitations upon civil liberties under the law. Early in the war Judge Learned Hand had attempted to lay down an objective standard by which the law could be interpreted. He held that "if one stops short of urging upon others that it is their duty or their interest to resist the law," one could not be held for its violation. Otherwise, the court stated, "I can see no escape from the conclusion that under this section every political agitation which can be shown to be apt to create a seditious temper is illegal," and he was confident that by the language used "Congress had no such revolutionary purpose in view."³⁵ In reversing Judge Hand, the Circuit Court of Appeals denied that his interpretation was correct, and declared that even if there was any doubt of the guilt of the defendant the case would be governed by the principle that the ruling of an administrative department must stand unless clearly wrong.³⁶

The crucial test of violation of the act was intent—the intent with which the accused spoke the words or committed the acts complained of. Since most of the courts took the attitude that anything which tended to dampen the war enthusiasm was a violation of the law, and that success was not necessary to constitute a violation, the question of intent became a mere formula. It is a well-known rule of criminal law that a person is presumed to intend the reasonable and natural consequences of his acts. But even at best the test is vague, and when public opinion is aroused and emotionally tense, it is an extremely tenuous doctrine for the protection of rights of those who hold unpopular economic and political doctrines.

Extraneous matter was often introduced in trials to show the motive or intent which actuated the accused. The anti-war Platform and other Socialist documents were introduced in a number of cases.³⁷ State-

³⁵*Masses v. Patten*, 244 Fed., 540. See Zechariah Chafee, *Freedom of Speech* (New York: Harcourt, Brace & Co., 1920), chap. II for a fuller discussion of the legal aspects of the Espionage Act cases.

³⁶Int. War Stat., Bull. No. 7.

³⁷*U. S. v. Hitchcock*, Int. War Stat., Bull. No. 122; *U. S. v. Nearing and American Socialist Society*, *ibid.*, Bull. No. 129, and 260 Fed., 385; *U. S. v. Debs*, Int. War Stat., Bull. No. 155; *U. S. v. Pierce*, *ibid.*, Bull. No. 52, and 245 Fed., 878. The Anti-War platform was framed at a special convention of the Socialist party held in St. Louis beginning on April 7, 1917. On July 7, it was announced that the party had approved the platform by a vote of 21,639 to 2,752. The platform charged that the war in Europe was caused by a conflict of capitalists' interests, and the American entrance into the war was instigated by the "predatory capitalists in the United States." It branded the declaration of war as "a crime against the people of the United States and against the nations of the world," and pledged "continuous, active, and public opposition to the war . . ." Text of the platform may be found in the *Appeal to Reason*, April 21, 1917; *The American Socialist*, same date, and in appendix to John Spargo, *Americanism and Social Democracy* (New York) Harper & Bros., 1918).

ments made before the enactment of the Espionage Act, or even before the declaration of war, were allowed in evidence. Within certain limits such evidence was valuable to the jury in determining the mental attitude, and hence the motives, of the defendant. But it placed a great burden on the jury. If the defendant was connected with such an unpopular organization as the Socialist Party or the I. W. W., he was likely to be convicted, because of his views on economic and industrial matters, or for membership in a certain group, rather than for the specific charges in the indictment.³⁸

To attribute the war to financial interests and for the benefit of the profiteers fell within the prohibitions of the law. And the President's War Message to Congress and the Declaration of War were accepted as evidence of the falsity of statements which blamed the war upon economic or capitalistic factors.³⁹ Yet historians later recognized that economic entanglements were one factor in involving us. It is also a matter of common knowledge that unconscionable profiteering did take place. In at least one case the jury was instructed to determine from its own general knowledge the truth or falsity of such statements.⁴⁰ Those who have followed the controversy among historians and the voluminous literature on the causes of American intervention will recognize the absurdity of such procedure.

Under the provisions regarding insubordination in the military and naval forces, few were convicted for actually urging men to evade the draft or not to enlist. Most convictions were for "expressions of opinion about the merit and conduct of the war." It was not necessary for the offender to speak in the presence of men of military age. One person was convicted for utterances against the Canadian Army.⁴¹ The Red Cross and the Y. M. C. A. fell within the prohibitions of the statute

³⁸See *Stokes v. U. S.*, 264 Fed., 20; *U. S. v. Moore et al*, Int. War Stat., Bull. No. 38; *U. S. v. Rev. John Fontana*, *ibid.*, Bull. No. 148; *U. S. v. Kirchner*, *ibid.*, Bull. No. 69; *U. S. v. Schoberg*, *ibid.*, Bull. No. 149 (Indicted under the Sedition Act.) On the other hand see Judge Amidon's very careful charges in two Nonpartisan League cases: *U. S. v. J. W. Brinton*, *ibid.*, Bull. No. 132; and *U. S. v. Walter T. Mills*, *ibid.*, Bull. No. 204.

³⁹*U. S. v. Dodge*, Int. War Stat., Bull. No. 202; *U. S. v. S. J. Harper*, *ibid.*, Bull. No. 76; *U. S. v. Zadernack*, *ibid.*, Bull. No. 143; *U. S. v. Stokes*, *ibid.*, Bull. No. 106; *U. S. v. Pierce*, *ibid.*, Bull. No. 52, 245 Fed., 878 and 252 U. S., 239 (1920).

⁴⁰*U. S. v. W. M. Hicks*, Int. War Stat., Bull. No. 160, 10. See also *U. S. v. John H. Wolf*, *ibid.*, Bull. No. 81.

⁴¹*U. S. v. Mead*, Int. War Stat., Bull. No. 103. Yet when Congress had the Espionage Bill under consideration, Congressman Caraway, one of the members of the House Committee on the Judiciary, in reply to an objection that the clause, "Whoever in time of war shall wilfully attempt to cause disaffection in the military and naval forces of the United States shall be punished by imprisonment for twenty years or for life," was too vague, stated: "That simply means that if a man should go among the armed forces of the United States and say that they ought not to obey

because civilian and military efforts were so related that a limited definition of the term "military and naval forces" could not be drawn.⁴² The law prohibited making false statements with intent to influence hearers so as to "dampen their ardor in the war . . . deter them from subscribing to bonds," or to giving their loyal support to the war activities of the country.⁴³

Many of the judges showed a confident omniscience as to the complex series of events which brought on the war. They often failed to recognize the limitations of a jury of twelve good men and true whose knowledge of history was sketchy at best and highly distorted by the widely disseminated war time propaganda. One may ask where the judges and juries obtained knowledge which was superior to that of the radicals who held objectionable views about the war. One cannot be sure, but presumably from the same source that most of us at the time got what we thought were absolute facts and truths on the causes and issues of the war—principally from the American and British propaganda machines, official and unofficial. In other words, the courts were simply reflecting in a large measure the intolerance of an aroused public opinion which refused to permit any questioning of the purity of American motives. And it may be remarked in passing that curiously enough Americans have fought for liberty, freedom and democracy for ourselves and others, and for American "rights," but have refused to consciously recognize economic causation, even when it was obvious. One may wonder if this is not a form of compensation for the high degree of economic causation which really does provide so significant a motivating force in our culture.

So long as the Department of Justice refuses to permit researchers to examine its archives of the World War I period, a principal source of information is lacking as to the influence of public opinion on the

the commands of their officers, that they were being led to slaughter, and that they ought to assert their rights as American citizens, then he would be subject to the provisions of this bill." *Espionage and Interference With Neutrality*, 65 Cong., 1 Sess., hearings before the Committee on the Judiciary, House of Representatives, Part II, 11. Compare the above provisions and Caraway's interpretation with the similar provisions of the Act and the interpretation by the Court.

⁴²*U. S. v. Louis B. Nagler*, 252 Fed., 217. Reversed by U. S. Supreme Court in a memorandum opinion (254 U. S. 661), Oct. 20, 1920, but it stood during the war as good law.

⁴³*U. S. v. Frerichs*, Int. War Stat., Bull. No. 85. But in *U. S. v. Henning*, the court held that the words must be spoken within the hearing of men actually in the service (*ibid.*, Bull. No. 184), while in *U. S. v. Zimmerman* the court stated that it was necessary to show in addition "that somebody who otherwise would have entered the service was induced not to; because otherwise there would be no injury . . ." (Nelles, *Espionage Act Cases*, 14). Had all the courts held to these narrower interpretations there would have been few convictions obtained, but it is quite likely that there would have been many more cases of mob violence.

enactment of the Sedition Act. But from other sources it is obvious that one reason for the support accorded this extreme measure was the demand for legal authority to reach, by the more orderly processes of law, the type of agitation which aroused some mobs to commit violence upon the person of the disturbers of the mental equilibrium of the patriots. Despite the severity with which the Espionage Act was enforced, it did not prohibit the utterance of many offensive words and sentiments which irritated the patriots no end. It was argued that a large part of the instances of mob violence was due to the "inadequacy" of existing law, which meant in effect that because citizens exercised certain rights which were legal in themselves but were an affront to others, such persons must be punished by mobs because there was no law which could be invoked against them. The remedy was simple: make such offenses punishable by law and reach the offenders by regular legal processes. Extremist patriotic organizations led in the hue and cry. One of these, the American Defense Society, circulated petitions through state defense councils and by other means demanding that Congress enact a law which would provide punishment for publication of statements of a "seditious or disloyal nature," and citing with approval the Montana State sedition law. This Montana statute was used by Congress as a guide in preparing its own bill. Nearly all of the acts committed by the mobs were considered as outside the scope of the federal law. It is doubtful whether convictions could have been obtained from juries anyway, even if the Department of Justice had been able to compel local authorities to bring actions against members of the mobs.

The Attorney General, with the concurrence of the Secretary of the Treasury, submitted a proposed bill amending Title I, Section 3, of the Espionage Act to include in its prohibitions efforts intentionally made for the purpose of discrediting and interfering with the flotation of government war loans, and to clarify the last section regarding obstruction of the recruiting and enlistment service. The Senate Committee on the Judiciary, however, acting on its own initiative "decided upon a course which resulted in the declaration by Congress of a changed and different policy aimed at the suppression of all utterances of a disloyal character."⁴⁴ The interpretation of the meaning of the term "utterances of a disloyal character" may depend upon and vary with time and place, but there can be little doubt that the Sedition Bill prohibited the type of utterances which had been arousing patriots over the country.

Space does not permit of an extended discussion of the new law, and coming as late in the war as it did, after so many offenders had been

⁴⁴O'Brian, *op. cit.*, 16; *Report of Attorney General for 1918*, 18. Text of the Sedition Act which was approved May 16, 1918, is in 40 U. S. Stat., 553.

silenced by other means, it does not appear that the law was widely used after all. As an example of the extent to which it could be applied, the most noted is the Abrams case.⁴⁵ The defendants referred to themselves variously as "rebels," "revolutionists," "anarchists," and "socialists," all terms which in that day aroused fear and animosity in the breast of every "right-thinking" American. None believed in the form of government of the United States and none was a citizen. They had published a number of leaflets denouncing the United States for sending aid to the White Russians against the Bolsheviks. Technically the United States was not at war with Russia, and hence the war statutes, it might be thought, would not apply. The defendants had declared, and no evidence was introduced to the contrary, that they had no desire to see Germany win the war. Yet three defendants were sentenced to twenty years and one to fifteen years, and the decision was affirmed by the United States Supreme Court.

The inadequacies of the jury system in free speech cases was well demonstrated during the war. In his report for 1919, the Attorney General stated that: "The care used by the department in its desire to do nothing to interfere with the legitimate exercise of the right of free speech is shown by the fact that in practically every case convictions were secured and substantial sentences imposed."⁴⁶ This statement may be, and probably is, a perversion of the proper order of cause and effect, for, as stated by O'Brian,

It has been quite unnecessary to urge upon the United States attorneys the importance of prosecuting vigorously, and there has been little difficulty in securing convictions from juries. On the contrary, it has been necessary at all times to exercise caution in order to secure to defendants accused of disloyalty the safeguards of fair and impartial trial.⁴⁷

Casting aside the element of excited public opinion, it is obvious that a jurymen's judgment of the "remote political and economic effects" of a publication or speech involving the issue of loyalty or the doctrines of socialism is more easily warped by his own views, his cultural and social background, than in ordinary criminal cases. An unsympathetic critic of the Espionage Act and its enforcement stated that:

A jury of a man's peers in a free speech case means a jury of one hundred per cent Americans who are also one hundred per cent conservative and one hundred per cent ignorant of the most ele-

⁴⁵*Abrams v. U. S.*, 250 U. S. 616 (1919); see also the *New York Times'* account of the cases in the lower court (mistakenly referred to as Abrahams), Oct. 22, 1918, and editorial on Oct. 28 thanking the judge.

⁴⁶p. 75.

⁴⁷*Civil Liberty in War Time*, 20.

mentary theories of socialism, industrial unionism, the labor movement, and social betterment in general. The very ideals of socialism and communism in their most pacifist forms shock an average jury to such an extent that they mistake the shock itself for force and violence.⁴⁸

On March 24, 1929, the *Chicago Tribune* published an editorial entitled "Gentlemen of the Jury," in which it was stated that "The jury is simply a sample of public opinion." In time of emotional excitation, at least, the aptness of the statement is obvious. In effect, the jury returns to the functions it had in its early origins in England where it was a body representative of the hundreds when the royal justice held court in the shire. In time of excitement the jury represents the dominant viewpoint of the community. Unless checked by the cool conduct and instructions of the judge, a verdict may be arrived at unconsciously through emotions and prejudices, rather than on the basis of the evidence presented.⁴⁹ Under such circumstances the utmost responsibility rests upon the judge, not only for what he says to the jury but for what he does not say or for his attitude toward the defendant; or even for his attitude toward witnesses professing to hold beliefs similar to those of the defendants.⁵⁰

It is probable that the judges were unprejudiced in the great majority of cases and deserve high praise for enjoining upon juries a dispassionate consideration of the evidence.⁵¹ Others, however, lectured the juries upon internationalism, Bolshevism, socialism, democracy, patriotism and love of country; defended the governments of England and France, and the righteousness of American participation in the war; and impressed upon them the necessity of suppressing traitors and treasonable utterances.⁵² In some cases, judges submitted opinions to the

⁴⁸Walter Nelles, "In the Wake of the Espionage Act," *Nation*, Dec. 15, 1920.

⁴⁹In one trial, the court, in taking the case from the jury, remarked that "I have felt in every case I have had of this character, peculiarly, whether that institution of which among our institutions we are proudest, the right of a man to be fairly tried by a jury of his peers, was not in question and whether the question of whether that could be successfully carried out was not in a case of this kind, a doubtful one." *U. S. v. Richard Brenne*, Int. War Stat., Bull. No. 199.

⁵⁰The Circuit Court of Appeals reversed the lower court in *Rutherford et al. v. U. S.*, chiefly because of the trial judge's attitude toward some witnesses called by the government who were members of the same religious organization as the defendants. 258 Fed. 855.

⁵¹See Chafee, *op. cit.*, 76-87 for a discussion of juries and judges.

⁵²See *U. S. v. Debs*; *U. S. v. Abrams*, *New York Times*, Oct. 22, 1918; *U. S. v. William Dodge*, Int. War Stat., Bull. No. 202; *U. S. v. Stokes*, *ibid.*, Bull. No. 106; *U. S. v. R. I. Moore et al.*, *ibid.*, Bull. No. 38; *U. S. v. Dick Windmueller*, *ibid.*, Bull. No. 112; *U. S. v. Rev. John Fontana*, *ibid.*, Bull. No. 148 and *New York Times*, Sept. 17, 1918. (In this case Judge Amidon gave the oration not to the jury but at the time of pronouncing sentence. The Iowa State Council of Defense reprinted the speech in

jury as statements of fact and then denounced the opinions in vigorous language.⁵³ Free speech as guaranteed in the First Amendment was not regarded as a positive protection, nor was it clearly defined. The courts in Espionage Act cases repeated "Freedom of speech does not mean license" so much that it became a hackneyed phrase, but it was of little help to a jury in determining a man's constitutional rights.

The war was over and most of the district court cases disposed of before the United States Supreme Court passed upon the Espionage Act and cases arising under it. Of the cases which it accepted for review, at least seven were affirmed and six reversed on error. In only one of the latter did the court give a written opinion. This was the Victor Berger case, and the reversal was based upon the refusal of Judge Landis to vacate the bench upon a petition of prejudice.⁵⁴ Petitions for writs of certiorari were refused in at least five cases.

The first two cases, *Schenk v. U. S.*⁵⁵ and *Sugarman v. U. S.*,⁵⁶ presented no very great legal difficulties, since the defendants had in effect urged upon men subject to the draft to oppose it. Aside from formally declaring the Espionage Act constitutional, the Schenk case is important in the history of free speech for the oft cited "clear and present danger" test given by Justice Holmes, who wrote the opinion. The court recognized the vital importance of circumstances in determining the rights of men. Under certain conditions the defendants "would have been within their constitutional rights" in doing the acts complained of. But "The most stringent protection of free speech would not protect a man in falsely shouting fire in a theatre and causing a panic." "The question in every case is whether the words used are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent. It is a question of proximity and degree."⁵⁷ There was more question as to the guilt of Jacob Frohwerk, publisher of the *Missouri Staats Zeitung*, and Eugene V. Debs, but the court maintained its unity. Justice Holmes, who wrote the opinion in the Frohwerk case, intimated that if the evidence had been better prepared and more fully presented, the lower court might have been reversed. But on the existing record it was not possible to say that the intent of the editors was

pamphlet form as an inspiration to patriotism. Reversed by C. C. A., 262 Fed., 283); *Kumpala v. U. S.*, 261 Fed., 49 (Reversed and remanded for a new trial by C. C. A. because of the court's charge denouncing the I. W. W.'s).

⁵³See *U. S. v. Stokes*, Int. War Stat., Bull. No. 106 (Reversed by C. C. A., 264 Fed., 26); *U. S. v. Pierce*, *ibid.*, Bull. No. 52.

⁵⁴*Berger et al. v. U. S.*, 255 U. S., 22 (1921).

⁵⁵249 U. S., 47 (March 3, 1919).

⁵⁶249 U. S., 182 (March 3, 1919).

⁵⁷249 U. S., 52 (March 1919). See also Int. War Stat., Bull., No. 43.

not as charged.⁵⁸ The conviction of Eugene V. Debs has been criticized both on grounds of public policy and law. The wisdom of making Debs a martyr in the eyes of his numerous followers certainly was open to question. But except for the fact that the lower court had permitted to be introduced in evidence so much extraneous matter, including the St. Louis Platform and the records and convictions of five Socialists whom Debs had defended, the Supreme Court's decision should have been expected. Debs had invited conviction by addressing the jury himself and admitting that he abhorred war and had obstructed the war.⁵⁹

In the other three cases the Court split, with Justices Holmes and Brandeis dissenting in each case and Justice Clark joining them in one case.⁶⁰ The majority of the court failed to follow the "clear and present danger" test laid down in the Schenk case. Of course, minority decisions do not make the law, unless they later become majority opinions. Our civil rights are what the legislative bodies and the courts say they are in a given instance. Since these bodies are composed of men who are fallible and subject to the same currents as the majority of the people, the nature of the rights will vary somewhat as prevailing philosophies change, particularly whenever an emotionally aroused public opinion attains a large degree of unity in a given direction. But, except for the Schenk case, it is only in the minority decisions in the cases above mentioned that one finds any discussion of the fundamental rights of free speech. In the decade of the 1930's, however, under the leadership of Charles Evans Hughes as Chief Justice, the Supreme Court in several notable decisions came to accept the definitions laid down by Justices Brandeis and Holmes in the Espionage Act cases.

Motives are often complex and the controlling one may not always be realized by the individual concerned. Whether the left-wing Socialists, for example, were dominated primarily by opposition to the government and a desire to obstruct its prosecution of the war, or by a desire to further the cause of Socialism by their propaganda may not always be clear. The evidence does not indicate that the leaders were pro-German in sympathy, but of course their stand was one which would attract alien sympathizers to their banner. Such close distinctions are not likely to be drawn in time of war, and under the doctrine of constructive intent it is not necessary to make them. Justice Brandeis believed in the *Pierce* case that the primary motive of the defendants

⁵⁸*Frohwerk v. U. S.*, 249 U. S., 204 (March 10, 1919).

⁵⁹*Debs v. U. S.*, 249 U. S., 211 (March 10, 1919). For lower court see Int. War Stat., Bull. No. 155.

⁶⁰*Abrams et al. v. U. S.*, 250 U. S., 616 (Nov. 1919); the so-called *Tageblatt* case in which five separate cases were disposed of with one opinion, 251 U. S., 468 (March 1920); and *Pierce et al. v. U. S.*, 252 U. S., 239 (March 1920).

was to aid the cause of Socialism, but seven of his colleagues believed otherwise.

Like the historians and propagandists of the war period, the courts disregarded the lessons of history in convicting offenders who honestly attributed bad motives to the United States in the war. As a matter of fact, both the Socialists and pro-war propagandists presented distorted views of the causes and issues of the war; however, the Socialist viewpoint was hardly more unrealistic in one direction than that of the Committee on Public Information in another. As pointed out by Justice Brandeis, also in the *Pierce* case, the causes of war are complex and are the results of many conditions and motives. He said:

Historians rarely agree in their judgment as to what was the determining factor in a particular war, even when they write under circumstances where detachment and the availability of evidence from all sources minimize their prejudice and other sources of error. For individuals, and classes of individuals attach significance to those things which are significant to them . . . One finds the determining cause for war in a great man, another in an idea, a belief, an economic necessity, a trade advantage, a sinister machination, or an accident.⁶¹

Whether judges were influenced by public pressure to extend their interpretation of the law far beyond what Congress had intended, or whether through associations and propaganda they had become merely "samples" of public opinion, is a question which is not necessary for us to answer. Sufficient it is to recognize that the courts and other public officials do not dwell in ivory towers apart from the world; and hence our judicial system is not of itself sufficient protection of rights guaranteed by the Constitution. Only the people can protect those rights. Only through a realization on the part of the majority that tolerance toward unpopular ideas is necessary to preserve civil liberties, and through defending those who have their rights threatened, can liberty be protected and assured. Too often, it appears, when the majority is large, it is willing to discard the safeguards of freedom already established in order to reach those whom it would silence, without thought of the danger that when once removed, these safeguards may never be restored. It fails to recognize, also, that the persecutors in the one instance may be the persecuted in the other, because the winds of public opinion have shifted, or because once the safeguards are loosed those who have control of the machinery of government may act without legal restraint.⁶²

⁶¹252 U. S., at 267.

⁶²See Chafee, *Free Speech in the United States*, Parts II-V, for some indications that the obstacles once removed were not restored.

Corporate Background of the Texas Utilities Company

CLYDE HALL

Sherman, Texas

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In the early days of the twentieth century the towns and cities in Texas were served by small independent or municipally-owned electric utility systems. Each of these systems was limited in its service area, usually to one town or city; consequently during this early period the corporate size of these utility systems was never very large. The environment of the first twenty-five or thirty years of this century was not conducive to long life for these small utilities. With very few exceptions these relatively small companies were absorbed by larger companies whose interests and properties soon became scattered across the nation. These larger companies have since come to be called holding companies and together with the various properties over which they gained control are now referred to as public-utility holding company systems. The holding company systems, in their constant desire to increase their scope of operations and in their desire to make more profit for those in control, became engaged in practices which later proved to be injurious to investors, consumers, and the general public. An investigation by the Federal Trade Commission in the late twenties and early thirties concluded that excessive concentration of control had evolved in the electric utility industry.¹

In an attempt to correct the abuses of and to remove the evils contained in the holding company systems Congress passed the Public Utility Act of 1935. This Act is divided into two parts: Title I of the Act deals with the control of the public-utility holding companies and is referred to as the Public Utility Holding Company Act of 1935². Two of its most important provisions have to do with the geographical integration and corporate simplification of the holding company systems. During the last decade the Securities and Exchange Commission, the agency assigned to administer the provisions of the Act, has applied these integration and simplification requirements to the various systems. Due to the action of the Commission there are now emerging many integrated and simplified public-utility systems. Section Two of the Holding Company Act defines an integrated public-utility system as follows:

As applied to electric utility companies, a system consisting of one or more units of generating plants and/or transmission lines and/or distributing facilities, whose utility assets, whether owned by one or

¹Federal Trade Commission, *Utility Corporations Report*, Senate Document 92. The investigation by the Commission was terminated in 1934; the results of the investigation comprise 101 volumes of reports made to the United States Senate.

²*Public Utility Act of 1935*, Sec. 33.

more electric utility companies, are physically interconnected or capable of physical interconnection and which under normal conditions may be economically operated as a single interconnected and coordinated system confined in its operations to a single area or region, in one or more States, not so large as to impair (considering the state of the art and the area or region affected) the advantages of localized management, efficient operation and the effectiveness of regulation.³

Among these integrated electric utility systems now emerging throughout the nation is the system of the Texas Utilities Company. This company was organized in 1945 under the laws of the State of Texas within the framework of Electric Bond and Share, formerly the largest public utility holding company system in the United States, which through five large subholding companies controlled operating companies in almost every state of the union and in many foreign countries. To understand the present position of the Texas Utilities Company within this framework it is necessary to trace briefly the history and development of the Electric Bond and Share Company system, especially in its relation to three electric utility companies operating in Texas: the Texas Power and Light Company, the Texas Electric Service Company, and the Dallas Power and Light Company. These three operating companies form the basis for the present integrated electric utility system operating in north, central, west, and southwest Texas, under control of the Texas Utilities Company.

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The Electric Bond and Share Company was organized in 1905 by the General Electric Company, a leading manufacturer of electrical equipment. General Electric's purpose in the forming of the company seems to have been threefold: (1) to realize as fully as possible upon various utility securities which it had acquired in the process of selling its equipment; (2) to obtain for itself a direct proprietary stake in a promising young industry with which it was already closely affiliated; and (3) to utilize the position it would acquire as a proprietary factor in the utility industry to advance the sales of its equipment.⁴

In return for its original investment in Bond and Share General Electric received all of that company's outstanding capital stock. Although it disposed of the preferred stock so acquired, it maintained its holdings of common stock and thus retained voting control of Bond and Share.

In 1909 Bond and Share caused to be incorporated in the State of Maine the American Power and Light Company. This latter company was organized to acquire certain securities which had been accumulated by

³*Ibid.*, Sec. 2, par. (29) (A).

⁴In the matter of Electric Bond and Share Company et al., *Securities and Exchange Commission Decisions and Reports*, XI, 1162.

Bond and Share. It was in the organization of this new subholding company that the pattern was set through which the holding companies were to realize enormous profits.⁵ Assets were placed on the books of the subholding company at a sum considerably in excess of their cost to Bond and Share; the subholding company then issued to Bond and Share senior securities with face amount more than sufficient to cover the cost of the assets turned over to the subholding company, and also issued substantial amounts of common stock (having a majority of total voting power). Bond and Share then sold to the public the senior securities thereby recouping all of its original cash outlay. Thus, Bond and Share emerged with a substantial block of voting stock at no cost and assured itself of complete control of the new corporation and its subsidiaries through the common stock holdings.

The formation by Bond and Share of the American Power and Light Company indicated that the holding company was well on its way toward securing a foothold in the American economy. The General Electric Company, in addition to its position as a manufacturer of electric equipment, had become, in the public-utility field, a holding company controlling the Bond and Share company, which was a holding company controlling the American Power and Light Company, which was a holding company controlling certain widely-scattered operating companies. In 1912 two more holding companies, Southwestern Utilities Corporation and Southwestern Power and Light Company, were added to this already complex set-up.

The Southwestern Utilities Corporation was organized for the purpose of enabling the American Power and Light Company to acquire control of various operating public utility companies in the State of Texas and to provide means for financing such acquisitions. Electric Bond and Share had acquired in 1911 and 1912 the properties of the following utility companies: Waco Electric and Gas Company, Waxahachie Electric and Gas Company, Cleburne Electric and Gas Company, Hillsboro Electric and Gas Company, Sherman Electric and Gas Company, Bonham Electric and Gas Company, and Temple Power and Light Company. Bond and Share conveyed its holdings in the securities of these companies to the Southwestern Utilities Corporation upon the formation of the latter company.⁶

Bond and Share also acquired in 1912 other companies in Texas, including the Paris Light and Power Company, Denison Light and Power Company, and Fort Worth Power and Light Company. The securities of these companies were transferred by Bond and Share to the American Power and Light Company, which in turn passed them on to the South-

⁵*Ibid.*, p. 1175.

⁶*Utility Corporations Reports*, Senate Document 92, pts. 23 and 24, 70th Congress, 1st Session, p. 957.

western Utilities Corporation. This latter company then conveyed the securities to two newly organized companies: the Southwestern Power and Light Company, a holding company, and the Texas Power and Light Company, an operating company. In exchange for the securities of these operating companies the Southwestern Utilities Corporation acquired securities of the new holding and operating companies.⁷

In addition to the companies mentioned above, the Texas Power and Light Company acquired in 1912 the properties of the Brownwood Gas and Electric Company and the Texas Utilities Corporation, which owned the electric properties in Gainesville.⁸ By 1917 the Southwestern Utilities Corporation and its subsidiary subholding company, Southwestern Power and Light Company, had acquired other properties in Texas, including the Wichita Falls Electric Company and the West Texas Electric Company. Thus by 1917 the holding company system of Bond and Share, as it affected the area under consideration, included five holding companies superimposed upon the operating companies. The following outline indicates the various companies and the parent-subsidiary relationship:

- General Electric Company
 - Electric Bond and Share Company
 - American Power and Light Company
 - Southwestern Utilities Corporation
 - Southwestern Power and Light Company
 - Texas Power and Light Company
 - Fort Worth Power and Light Company
 - Wichita Falls Electric Company
 - West Texas Electric Company

Since the Southwestern Utilities Corporation had fulfilled its purpose in providing the means for financing the purchases of the various Texas companies, it was dissolved in 1918 by the American Power and Light Company. Because the American Power and Light Company owned all of the common stock of the Southwestern Utilities Corporation it thereby acquired the assets of the dissolved corporation, which consisted principally of all the outstanding common stock of Southwestern Power and Light Company. As indicated in the outline above the Southwestern Power and Light Company controlled the Texas Power and Light Company, the Fort Worth Power and Light Company, and other operating companies located in west Texas.

In the acquisition of the properties throughout the northern, central, and western part of the state, the Bond and Share system had not gained

⁷*Ibid.*, p. 858.

⁸*Ibid.*, p. 1017.

control of one of the most important utility properties within this area—the electric utility properties situated in Dallas county. In 1919 to remedy this situation Bond and Share purchased 13,333 shares of Dallas Power and Light Company common stock from the Southern Securities Corporation. This was sixty-seven per cent of the then outstanding common stock and brought the company under the control of the Electric Bond and Share Company. Dallas Power and Light had been incorporated in 1917, and at that time had acquired the assets of the Dallas Electric Power and Light Company which had operated in Dallas since 1902 under the management of the Stone and Webster system, another of the sprawling utility holding company systems.⁹

In 1923 Electric Bond and Share purchased an additional interest in the Dallas Power and Light Company from the General Electric Company. A plan of reorganization which followed this acquisition involved the disposal of six and two-thirds per cent interest in Dallas Power and Light Company to an affiliated company, and the disposal of nine per cent of the interest to the citizens of Dallas.¹⁰ Through the above transaction and by means of a stock split Bond and Share had by 1925 increased its holdings in Dallas Power and Light common to 113,750 shares. It was in this year that the Electric Power and Light Corporation was formed as another subholding company of Bond and Share, in effect a sister company of the American Power and Light Company. At the time of the formation of this new subholding company Bond and Share conveyed to it a considerable amount of securities, including those of Dallas Power and Light. The outcome for Bond and Share in the organization and financing of the Electric Power and Light Corporation was successful beyond all previous similar ventures. In all, Bond and Share emerged with securities carrying approximately sixteen per cent of the voting power, and a net cash profit of over \$6,000,000.¹¹

The Electric Power and Light Corporation was the last of the major subholding companies organized by the Electric Bond and Share Company. By the time of the organization of this company the system had acquired the majority of those properties in north, central, west and southwest Texas, which are now included in the Texas Power and Light Company, the Texas Electric Service Company, and the Dallas Power and Light Company. A few properties were later added to the system; in 1926 certain operating properties were acquired from the Texas Public Utilities Company and the Mineral Wells Electric Company; in

⁹*Utility Corporation Reports*, Senate Document 92, pt. 69, 70th Congress First Session, p. 50.

¹⁰It is interesting to note that at present nine per cent of the common stock of the Dallas company is in the hands of holders outside the Bond and Share system.

¹¹In the matter of Electric Bond and Share Company et al., *Securities and Exchange Commission Decisions and Reports*, XI, 1179-1180.

1928 the Corsicana Power and Light Company was added to the system, and in 1930 the properties of the Terrell Electric Light Company were acquired. The Texas Power and Light Company had been incorporated in 1912, and since the time of its incorporation had been an operating company; the Dallas Power and Light Company had been incorporated in 1917 as an operating utility and came within the Bond and Share system in 1919. The present Texas Electric Service Company had not yet been incorporated, but the nucleus for it had been acquired through purchase of the Fort Worth Power and Light Company, the Wichita Falls Electric Company, and other utility properties in west and southwest Texas.

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In December 1924 there was introduced in the United States Senate a resolution charging the General Electric Company with exercising undue control over the electric power industry, and shortly thereafter the Senate adopted Senate Resolution 329 (68th Congress, 2d Session) directing the Federal Trade Commission to investigate to what extent and by what means the General Electric Company or its security holders "... monopolize or control the production, generation or transmission of electrical energy or power."¹²

Soon after the introduction of this Resolution the board of directors of the General Electric Company voted that the company should divorce itself from Bond and Share which had been a subsidiary since 1905. Accordingly, in 1925, the Electric Bond and Share Securities Corporation was organized with exactly as many shares of common stock as there were shares of General Electric common stock outstanding. General Electric subscribed for these shares of the new company, and paid for them by turning over to the new company all of its stock holdings in the Electric Bond and Share Company, which included all of the common stock and 300 shares of preferred. General Electric then distributed the new company's stock to the common stockholders of General Electric, giving to them one share of the securities corporation's stock for each share of General Electric stock held. Thus General Electric technically no longer exercised direct control of the Bond and Share system. But since those who exercised control over the General Electric Company were the same as those who controlled the far-flung utility empire, the separation was more theoretical than actual. It is true that the officers of the new corporation did not hold the same position in the General Electric Company, but the group to which these officers were responsible was the group in control of General Electric.

The system was somewhat simplified in 1929 through the consolidation

¹²*Congressional Record*, vol. LXVI, pt. 4, 68th Congress, 2d Session, pp. 3281-3303.

of the two top holding companies, the Electric Bond and Share Securities Corporation and the Electric Bond and Share Company, with the result that a new Electric Bond and Share Company was formed. Other than the elimination of one tier in the structure this consolidation had little effect. Investments formerly carried in the portfolio of the old Electric Bond and Share Company at \$148,501,290.79 were written up to \$547,703,118.18, a write-up of \$399,201,827.39.¹³ However the write-ups had no material effect on any of the operating companies in Texas.

Further simplification of the system included the organization of the present Texas Electric Service Company in 1929. This new company was incorporated to acquire the assets of the Fort Worth Power and Light Company and of other electrical utility properties scattered throughout west and southwest Texas. Since its formation there have been no major extensions in its area; its progress has been in a more intensive development of the area already served. Its operations now cover parts of northern, central, western, and southwestern Texas.

There was one further simplification measure carried out by the Bond and Share system prior to the enactment of the Holding Company Act in 1935. On November 1, 1930, the American Power and Light Company acquired the assets of the Southwestern Power and Light Company and that company was subsequently dissolved. The dissolution was in no way a major task. Such companies as the American Power and Light Company, Southwestern Utilities Corporation, Electric Power and Light Corporation, and Southwestern Power and Light Company according to the findings of the Federal Trade Commission, were never more than a set of books in the New York offices of the Electric Bond and Share Company.¹⁴ The principal officers of these and other companies were generally officers in the Electric Bond and Share Company. To dissolve a company required little more than a transfer of the assets and liabilities from one set of books to another.

Thus immediately prior to the passage of the Holding Company Act, the Bond and Share system as it affected the Texas operating companies under discussion, appeared as follows:

Electric Bond and Share Company
American Power and Light Company
Texas Power and Light Company
Texas Electric Service Company
Electric Power and Light Corporation
Dallas Power and Light Company

¹³*Utility Corporation Reports*, Senate Document 92, pts. 23 and 24, 70th Congress, 1st Session, p. 49.

¹⁴In the matter of Electric Bond and Share Company et al., *Securities and Exchange Commission Decisions and Reports*, Vol. XI, p. 1189.

It should be remembered that the subholding companies—American Power and Light Company and Electric Power and Light Corporation—controlled other operating companies, or other subholding companies controlling other operating companies, in various parts of the nation. The Holding Company Act stipulated that a holding company should cease to be a holding company with respect to each of its subsidiary companies which itself had a subsidiary company which was a holding company (corporate simplification); and that a holding company system should be reduced to single integrated public-utility systems (geographical integration).

In May 1940 the Securities and Exchange Commission instituted simplification proceedings against the Electric Bond and Share Company and certain of its subsidiaries, including the American Power and Light Company and the Electric Power and Light Corporation.¹⁵ In 1942, after a most comprehensive examination of the entire system, the Commission concluded that "it is indisputable that American Power and Light is not only an undue complexity but also a wholly unnecessary one, inasmuch as there is not now, nor has there ever been, reason or purpose for its existence, except as an instrumentality through which Electric Bond and Share is able to control its system wholly repugnant to the statute."¹⁶ Upon the basis of such findings the Commission decided that the most appropriate action to remedy matters would be the dissolution of the American Power and Light Company. The Commission reached the same conclusion in regard to the Electric Power and Light Corporation, and ordered the dissolution of both these subholding companies. The two companies carried a joint appeal to the courts where the order of the Commission was upheld first by the lower court, and ultimately in 1946 by the United States Supreme Court.¹⁷

In apparent anticipation that the order of the Commission would be upheld, the American Power and Light Company in 1945 sought and secured the approval of the Securities and Exchange Commission for the formation of a new holding company, Texas Utilities Company.¹⁸ In

¹⁵*Tenth Annual Report of the Securities and Exchange Commission*, p. 120.

¹⁶In the matter of Electric Bond and Share Company et al., *Securities and Exchange Commission Decisions and Reports*, vol. XI, p. 1207.

¹⁷The American Power and Light Company and Electric Power and Light Corporation v. Securities and Exchange Commission, 91 *United States Supreme Court* 89.

¹⁸The newly created Texas Utilities Company should not be confused with a Texas Utilities Company which formerly existed in the Community Power and Light holding company system. This earlier Texas Utilities Company controlled properties located in the Panhandle area. In January 1937 the Texas-New Mexico Utilities Company acquired all the property and assets of this Texas Utilities Company, and of the New Mexico Utilities Company. The Texas-New Mexico Utilities Company was later absorbed by the Southwestern Public Service Company, which is the present electric utility operating company in the Panhandle area of Texas and Oklahoma.

October 1945 this new company acquired from the American Power and Light Company its interest in the Texas Power and Light Company, the Texas Electric Service Company, and sufficient cash to purchase from the Electric Power and Light Corporation its holdings in the Dallas Power and Light Company (which at this time consisted of over ninety per cent of the voting stock). Thus Texas Utilities Company assumed common stock control of the three Texas operating companies whose facilities had been physically interconnected for many years.

All common stock of the Texas Utilities Company, the only class outstanding, is as yet owned by the American Power and Light Company, which is still under control of the Electric Bond and Share Company. However the American Power and Light Company is in the process of dissolution as required by the Securities and Exchange Commission and included in the pending plan of dissolution is the distribution of its common stock holdings in Texas Utilities Company. The Company has filed with the Commission a voluntary dissolution plan which has not yet been approved or disapproved. Among the principal features of the plan is the proposed sale to the public of fifteen per cent of the Texas Utilities Company common stock and the distribution of the remaining eighty-five per cent to holders of certain preferred stock of the American Power and Light Company. Upon completion of the distribution the present holders of the preferred stock of the American Power and Light Company would assume the voting control of Texas Utilities Company, and thus would exercise control over the three operating companies—Texas Power and Light Company, Texas Electric Service Company, and Dallas Power and Light Company. The corporate arrangement would thus be simplified to the following:

Texas Utilities Company
 Texas Power and Light Company
 Texas Electric Service Company
 Dallas Power and Light Company

The Texas Utilities Company is the latest of a long series of holding companies within the framework of the Electric Bond and Share holding company system. In many respects the new company is similar to the various other holding companies now or formerly within the system and like many of its predecessors its scarcely more than a set of books. The stated purpose of the company is that of assisting in the various financing requirements of its three operating subsidiaries. The president of the company is also the president of the American Power and Light Company; the three vice-presidents are the chief executives of the Texas Power and Light Company, the Texas Electric Service Company, and the Dallas Power and Light Company. These four men, together with a Texas banker and a Texas oilman, comprise the board of directors of the Texas

Utilities Company. The control of the company rests in the hands of the American Power and Light Company; although the voting stock must be distributed by the parent in the immediate future, it seems unlikely that actual control will change hands.

In summary, control of the electric utility operating companies located in north, central, west, and southwest Texas, is vested in a group distinctly different from the interests which were in control at the beginning of the present century. At that time the operating companies were relatively small, operations were generally confined to one city or town, and control rested with local interests. Control of the companies in this area now rests with those in control of the Electric Bond and Share system. There will likely be little or no change in management upon the separation from this system of the Texas companies under discussion. The board of directors and officers of the Texas Utilities Company, the majority of whom have long been associated with the Electric Bond and Share system, will undergo no change. Upon the embarkation of this company as the controlling unit of an independent public-utility system the command will be with this group. Since this group will be firmly entrenched at the outset, and since it will control the proxy machinery, it is unlikely that control will become dispersed. In passing it should be noted that legislation in recent years was not primarily designed to restore control of the utility companies to the scattered local interests formerly in control. It is true that voting power was to be decentralized, but the Holding Company Act was not directed so much at shifting control as it was toward assuring a more efficient operation of the public utility industry through regulation and supervision.

The holding company systems have served to combine local operating utility properties and to integrate them into larger physically-interconnected systems. The zeal of the holding company systems carried such integration beyond the realm of efficient management and thus invited governmental regulation. This regulation was designed to reduce the size of holding company systems to efficient, integrated, and simplified public-utility systems. The system of Texas Utilities Company is only one of these many integrated and simplified systems now appearing throughout the nation.

Land for Texas Veterans

JOHN H. SOUTHERN and JOE R. MOTHERAL*

In November 1946 the voters of Texas approved an amendment to the state constitution providing for the extension of credit to veterans of World War II for the purpose of buying farm land. To become operative this amendment requires subsequent action of the legislature. The substance of the constitutional amendment and the legislation thus far introduced are the subject of this paper. Some of the problems and policies related directly to the proposed Texas legislation are discussed.

A BACKGROUND

Historical precedents may be found for almost any type of land program for the veteran. The rewarding of fighting men with land is a custom perhaps as old as arable agriculture itself. Rome practiced wide distribution of conquered land among its soldiers.¹ After the early wars of our own nation, land was the most plentiful commodity with which to reimburse the military. All the early day land-settlement proposals of the Federal government included priority provisions favoring those who had served in some branch of the military service. In analyzing policies which immediately followed the Revolutionary War one author states: "Soldiers were given lands and later negotiable land script which could be converted into cash."² Another authority points out that from 1846 to 1856, "no less than four military bounty bills became law."³ As late as 1856, Congress acted to reward soldiers who had served in any war from the Revolution up to that time.⁴

After the pattern established by the United States, Texas as a Republic followed the custom with its public domain of "land for soldiers." The Republic acted in 1837 to grant lands to those engaged in some of the more outstanding battles in the War for Independence from Mexico.⁵ In entering the Federal Union through treaty Texas reserved its public domain as well as its debts. In 1881 Texas, now a member of the Union,

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¹Robert England, "Soldier Settlement: Revising the Oldest Rehabilitation Prospectus," *Journal of Land and Public Utility Economics*, Vol. XX, No. 4, Nov. 1944, p. 285.

²Ely and Wehrwein, *Land Economics*, (The Macmillan Company, 1940), p. 91.

³Roy M. Robbins, *Our Landed Heritage—the Public Domain, 1776-1936*, (Princeton University Press, 1942), p. 156.

⁴*Ibid.*, p. 156.

⁵Bascom Giles, *History and Disposition of Texas Public Domain*, Commissioner of the General Land Office, Austin, Texas, p. 11.

provided land for those citizens who had fought in the Civil War. Land donations to veterans after these wars totaled more than 3 million acres.⁶

Following the last two wars, World War I and II, most programs for civil readjustment of the military man have included some form of land scheme. However the emphasis on "back to the land" programs has become minor in recognition of the growing importance of the non-agricultural segments of the economy. Moreover, acceptable free lands no longer were available for the tired fighter, although the Federal government gave priority preference in homesteading to the new veteran as late as 1919 and 1922. The disappearance of free lands for distribution among the veterans marked the end of an era in public land policies. Liberal credit programs through public agencies have supplanted the land bounty of the earlier periods.

A few states attempted soldier land settlements through extension of credit at the end of World War I.⁷ Texas was not one of them. Currently, the best known credit scheme for veterans is included among the provisions of a Federal statute, the Servicemen's Readjustment Act of 1944, better known as the "G. I. Bill of Rights." Texas, following these precedents for credit programs, has proposed a land purchase program for veterans financed through the state's own financial resources.

THE CONSTITUTIONAL AMENDMENT

Constitutional authorization for the veterans' land program was adopted in a statewide election in November 1946. Actually the exact provisions of the constitutional amendment were included in House Joint Resolution No. 62 of the 49th legislative session which provided for the holding of an election. The essential features of the amendment follow.

A Veterans' Land Board, composed of the Governor, the Attorney General, and the Commissioner of the General Land Office, was created. This land board was to be authorized by the legislature to issue bonds or obligations to the State of Texas not to exceed \$25,000,000 and bearing a rate of interest not to exceed 3 percent. The fund thus created was to be termed the Veterans' Land Fund.

The land to be purchased by the board (at the lowest price obtainable) through use of the fund was limited to that situated in the state and owned by (a) any agency of the Federal government, (b) any agency of the State of Texas, or (c) any person, firm, or corporation. Obviously there were to be no ownership restrictions in purchasing any land. All lands

⁶*Ibid.*, p. 17.

⁷South Dakota, Oregon, California, Washington, Arizona and Minnesota attempted land settlement schemes involving some type of credit in the period immediately following World War I. For a summary of these plans and their accomplishments, see W. A. Hartman, "State Land-Settlement Problems and Policies in the United States," USDA Technical Bulletin No. 357, May 1933, pp. 35-45.

obtained were to be a part of the Veterans' Land Fund. These lands were to be sold by the state to Texas veterans of World War II, in such quantities, and on such terms, and under such rules and regulations as might be prescribed by law. However any lands remaining unsold eight years after the effective date of the amendment might be sold to anyone as prescribed by law.

To have any effectiveness the amendment had to be followed by action on the part of the state legislature. Accordingly, a bill (H. B. No. 42) was introduced in the 50th Legislature, regular session, 1947. The measure was acted upon favorably by the House of Representatives, but never came to a vote in the Senate.

PROPOSED LEGISLATION

In its final form the bill provided for activating the constitutional amendment through these essential features: In order to finance land purchases the board was authorized to issue negotiable bonds not to exceed the aggregate sum of \$25,000,000. It was evident in the bill as in the amendment that the weight of the administration of the program would devolve upon personnel to be employed in the General Land Office. All moneys received by the board through sale of bonds and from the purchasers of land, as well as all other income from the land purchased, was to be deposited in the Veterans' Land Fund. This amounted to the creation of a revolving fund to be used for buying additional land. The eight-year limitation of the program was repeated in the proposed legislation.

Land acquired might be subdivided for sale into tracts of such size as deemed advisable by the board. No land was to be sold at less than its actual cost, and no veteran was permitted to purchase more than one tract, or to benefit more than one time under the act. Situations wherein a veteran already owned land and wanted an additional tract were not covered in the bill.

No veteran could buy land which cost the board more than \$7,500. An initial down-payment of 10 percent of the purchase price was required of the veteran. The prospective purchaser could be authorized by the board to submit his selection of a particular tract of land. Upon approval of the board the tract could be bought provided the veteran had fulfilled the requirement of payment of 10 percent of the purchase price.

Amortization of the loan could cover a period to be fixed by the board, but not exceeding 40 years. Interest was specified at 4 percent. Prepayment privileges were extended the borrower, and for "good cause" the board could postpone payments on the loan. To be able to make further transfer of the land the veteran must have "enjoyed possession" thereof

for a period of three years and complied with all the terms and conditions of the act as well as the rules and regulations of the board.

The deed was not to be passed to the veteran until the entire indebtedness had been paid. One-half of any bonus or delay rentals received by the veteran under any mineral lease had to be paid to the board and subsequently applied toward the satisfaction of the indebtedness.

It is evident from the above summary of the proposed legislation that a more or less conventional credit program was to have been created. However, the Texas plan contains a few features that merit special attention. These, and the adaptability of the entire plan to Texas agriculture, require further analysis.

LOAN LIMITATIONS AND TEXAS AGRICULTURE

Three limitations were to have been placed upon the program; namely, the \$25,000,000 maximum on the fund itself; the eight-year time limit; and the ceiling on individual loans of \$7,500. The first two limitations are important from the standpoint of numbers of veterans who would benefit from the program; the last is important in considering the size of farm unit available to the individual borrower.

If only a small proportion of the number of Texas veterans desired to enter farming, and required credit to do so, the inadequacy of the amount of the fund to satisfy the loan demand is readily apparent. It is estimated that in 1946 about 56,000 Texas veterans left cities, towns, and villages for the farm.⁸ This is not a net movement, and therefore it might be expected that many thousand moved from the farm to urban centers. However, it is an indication of the possible magnitude of demand for credit for a loan fund limited to \$25,000,000. An inkling of the potential demand is to be found in some 9,000 letters of inquiry from veterans to the General Land Office since the constitutional amendment was first publicized.

If all loans were made for the maximum amount of \$7,500—a situation not likely to occur—approximately 3,335 loans could be made out of the original fund, provided that administrative funds were appropriated by the legislature. Considering the probable demand for land ownership credit among Texas veterans, several times this number of loans might prove to be inadequate to meet the problem. The Farm Security Administration made 3,561 tenant-purchase loans in Texas during an eight-year period without nearly meeting the demand.⁹ In many counties there were as many as 20 applicants for each loan. Thus it may be said that this program only scratched the surface in meeting the desire for land ownership loans.

⁸Preliminary. Based upon data collected by the Texas Agricultural Experiment Station in cooperation with the Bureau of Agricultural Economics, USDA.

⁹*Agricultural Finance Review*, U. S. Dept. of Agriculture, Vol. 9, Nov. 1946, p. 91.

Perhaps the most serious handicap of the proposed credit plan is the maximum amount to be loaned the individual veteran. A limit of \$7,500 automatically places a ceiling on the size of unit which may be purchased. In some locations this amount of loan will provide a farm unit for the veteran which, in terms of farming techniques and living standards in these areas, will be above the average. In many others the farm purchased with this amount of credit will be so inadequate as almost to insure the failure of the veteran farmer, and subsequent financial loss to the Veterans' Land Fund. One authority holds that most failures of public land credit programs have been due to the "small holdings" policy of these programs.¹⁰

The above-mentioned tenant-purchase loans averaged \$7,677 during a period when land prices were markedly lower than at present (farm enlargement loans are included in this figure).¹¹ What is perhaps more significant, many observers came to regard the inflexible upper loan limits of this program as its biggest drawback.

Taking into account the extreme variations in investment requirements for Texas farms, it is not plausible to expect any rigid loan ceiling to operate fairly. For example, the 1945 Census showed a range in average values per farm of \$1,335 in Newton County, to \$272,425 in Kenedy County. It is not surprising, of course, that the 1945 index of farm operator family level of living for Newton County was 34 (U.S. = 100; Texas = 101).¹²

Thus, a \$7,500 upper limit on a veteran loan would discriminate seriously between different areas of the state. For instance, this amount would purchase a much larger than average farm in most counties of East Texas. Here the average investment per farm in land and dwellings is generally less than \$4,000.¹³ However, these units are notoriously too small to provide adequate employment and income to the farm family.

In the Black Prairie Area, an important agricultural section, a "typical family-operated" cotton farm was 142 acres in size in 1945.¹⁴ The average selling price of this land in 1945 was \$52.21 per acre.¹⁵ The value of the

¹⁰Black and Hyson, "Postwar Soldier Settlement," *The Quarterly Journal of Economics*, Vol. LIX, No. 1, Nov. 1944, pp. 1-35.

¹¹*Ibid.*

¹²Margaret Jarman Hagood, "Farm Operator Family Level of Living Indexes for Counties of the United States 1940 and 1945," Bureau of Agricultural Economics, USDA, May 1947.

¹³Based on average values of farms above 30 acres as reported in the U. S. Census of Agriculture for Texas, Vol. 1, Part 26, 1945.

¹⁴See "Typical Family-Operated Farms, 1930-45," F. M. 55, Bureau of Agricultural Economics, USDA, April 1946, p. 81.

¹⁵Motheral, Southern, and Crockett, "The Price of Texas Farm and Ranch Lands, 1920-1945," Texas Agricultural Experiment Station, Bulletin No. 688, Bureau of Agricultural Economics, USDA, cooperating.

"typical family" cotton farm would be \$7,414, or approximately the \$7,500 maximum loan for land and buildings. Actually, the average value of farms, 30 acres and over in size, in many Black Prairie counties was above \$9,000 in 1945.¹⁶

Farther to the west the problem of obtaining a family operated farm with a \$7,500 loan becomes even more difficult. A typical cotton-grain sorghum farm in the High Plains Area was 222 acres in size in 1945.¹⁷ Here the selling price of this farm at \$52.25 per acre¹⁸ was \$11,600. A typical family operated wheat-grain sorghum farm farther north on the Texas High Plains was 690 acres.¹⁹ At \$21.32 per acre²⁰ this farm was valued at \$13,710. With reference to other areas there is not the remotest possibility that the veteran could become a small rancher through the amount of credit extended under the proposed plan. Neither was the credit adequate for a small irrigated unit in the Lower or Upper Rio Grande Valley Areas.

While some of these typical units might be larger than absolutely necessary for successful farm operations, it is definite that the family farm in all areas of Texas is increasing in size. Improved techniques of production are expanding the opportunities for increased incomes to the individual farm family through application of its labor to greater units of land. The introduction of livestock and feed crops to a one-crop system, and the general application of soil conservation practices have stimulated further the trend toward larger farms. In view of these adjustments, a policy of setting up small units by limiting the amount of credit to \$7,500 might be questioned. On the other hand, there are those who maintain that community benefits from having more people on the land more than offset lack of adequate incomes resulting from small farms.

PURCHASE OF LAND BY THE BOARD

One of the unique features of the Texas plan is the constitutional provision that land will be bought outright by the Veterans' Land Board. This is in contrast to the national program of tenant-purchase loans which never provided for prior purchase by the Federal government and resale to borrowers. The procedure followed has been agreement between creditor and borrower on a mutually satisfactory land unit and subsequent purchase thereof.

In the state plan it was to be the prerogative of the board to purchase land and hold it for subsequent sale to veterans through the land fund. This feature presumably resulted from the impression that large blocks

¹⁶U. S. Census of Agriculture, *op. cit.*

¹⁷"Typical Family-Operated Farms, 1930-45," *op. cit.*, p. 77.

¹⁸Texas Agricultural Experiment Station Bulletin No. 688, *op. cit.*

¹⁹"Typical Family-Operated Farms, 1930-45," *op. cit.*, p. 73.

²⁰Texas Agricultural Experiment Station Bulletin No. 688, *op. cit.*

of military lands were to be sold by the Federal government. It was assumed that a state agency would have high priority in bidding for these lands. Apparently the intention was to purchase these tracts and subdivide them for veterans in accordance with demand.

Perhaps this feature of the amendment would have operated favorably in case large holdings of military or other lands had been placed on the market. Certainly in a well administered program the veteran should have reaped some economy benefit from large scale land purchases by the board.

On the other hand, there was some criticism of the proposed plan based on the judgment that the board would have authority to purchase any land, or go into the "real estate business," as it saw fit within the limitations of the \$25,000,000 fund. Doubtless there would have been problems associated with this method of obtaining land. Proper precautions would be necessary to see that desirable tracts from the veteran farmer's standpoint would be bought. Potential or probable mineral development would have created a problem in this type of purchase plan. Sponsors of the legislation recognized this factor in saying that actual or potential mineral discovery on lands while held by the board, and before sale to the veteran, would render the land so valuable that it probably could not be sold to the veteran as was intended. It is not unlikely that in Texas, where search for minerals is so extensive, difficulties in connection with this problem would have arisen to plague the administration of the program.

As pointed out above, the board could authorize a prospective purchaser to submit his selection of a tract to be purchased. Insofar as this method could or would be followed some of the difficulties mentioned might be avoided. Also the borrower would have the personal satisfaction of sharing in the selection of his prospective farm and home.

CREDIT FEATURES OF THE PLAN

Apparently the provisions of the proposed legislation meet most present day requirements of credit adequacy. The amortization period was limited to a maximum of 40 years. The board could limit the loan term to a shorter period if it so desired. The interest rate of 4 percent, while not exorbitant, is higher than the standard tenant-purchase loan of the Federal government at 3 percent. Over a 40-year period, or even 25 years the difference in the amount of interest paid by the borrower would be substantial.

The down payment of 10 percent was placed in the bill because its sponsors felt that any veteran should participate financially in setting up a farm unit. This down payment might have been left to the discretion of the board since, under the rigid legal requirements, there might be a

tendency to substitute financial qualifications for even more fundamental qualities making for success in farming. In other words, a 100 percent loan to the individual having the personal characteristics and potentialities of a successful farmer might be "safer" than a 50 percent loan to the man who had little prospect of becoming a successful operator. The experience of other credit institutions tends to bear out this statement.

The provisions that the board could postpone payments of the borrower for "good cause" is an especially favorable credit feature of the plan. Much of the past distress of mortgaged landowners has been due to the rigid annual nature of the payment plan. Regardless of income changes borrowers have had to meet annual credit charges. In the Texas plan the borrower would have some protection against losing his equity in years of depressed prices and in years of crop failures. If the board so desired, repayments could be adjusted in accordance with each year's income.

The credit plan is not limited strictly to agricultural lending. The sponsors mentioned this fact to the authors, indicating that while it was not the intention to make non-agricultural loans, it would be possible to do so under the amendment and the proposed legislation. It is questionable whether such ambiguity in language and purpose is desirable in an agricultural credit program. Standards of the plan devised for agricultural loans might not be applicable to "city lot" farming at the edge of town. It might have been advantageous for legislation on the matter to outline more specifically the general purpose for which the credit could be used.

OTHER COMMENTS

Is there a need for a land credit program in Texas for veterans? This question cannot be answered with an emphatic "yes" or "no." It must be answered largely in terms of policy. The general basis for such a program rests primarily in the public belief that the veteran's wartime service merits some special consideration, and, for agricultural veterans the answer always has been a land program of sorts. In the absence of an extraordinary credit source, the average veteran of World War II cannot cope with the prohibitive farm investment requirements prevailing in most areas. One manner of assisting rural veterans would be to extend credit to meet their landownership requirements.

The character of the proposed legislation appeared to be more general than specific. The absence of detailed regulations would place an especially heavy burden on the General Land Office in establishing administrative procedures and standards. Some features not mentioned in the legislation include the method of land, or borrower, selection, supervision of loans, and allowance for supplementary credit. Requirements for repayment, as described above, could insure much needed flexibility.

Finally, the question of state land credit for veterans is not merely academic, even though the recent legislature did not see fit to create an effective plan. The basic authorization for a program is now embedded in the constitution and may be acted upon by any future legislative session. Perhaps this delay might be used to improve some of the features of the proposed legislation, thereby creating in the long run a more effective credit plan for Texas veterans.

Oil and Agriculture

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It is estimated that Oklahoma has 3 percent of its land area in oil fields—something over a million acres. Oil production is widely distributed over the State with more than half of the 77 counties of the State producing oil or gas. Production in some counties is small but it does indicate the widespread influence oil might have on agriculture.

In addition to the land in oil fields, 8 to 10 million acres or more are under lease most of the time. This leasing activity extends over an area of some 35 million acres—about 80 percent of the State. Royalty interests are bought and sold over much of this area.

In 1941 James Salisbury, of the Bureau of Agricultural Economics, now with the Rural Electrification Administration, presented a study entitled "Influence of Subsurface Properties Upon Land Utilization and Land Values" before a meeting of the Southwestern Social Science Association. That paper, of necessity, dealt principally with background material and generalities. Up to that time little empirical data were available upon which to base a more factual report.

It was pointed out in that report, that income from minerals in the Southwestern States is approximately the same as income from agriculture. In view of this, it was stated that land economists of this region might well devote some effort toward studying the effects that minerals have on the agricultural economy.

It had been reported that problems of one sort or another arise—that there is a conflict between agricultural interests and mineral interests. This conflict was said to exist not only where actual production of oil occurs, but to extend beyond these boundaries to the rest of the State. There seems to be little doubt that problems do arise where these two conflicting interests meet. But, to "put a finger on" the problems, or to measure them, or to positively correlate them with the presence of minerals has not proved easy.

In view of the extensive area in Oklahoma subject to actual or potential oil and gas production, research workers have tried to determine what influences, if any, actual oil production might have on land use and tenure. The Soils Department assisted in preparing maps showing soils areas, natural vegetation, and other physiographic features. These maps were superimposed over a type-of-farming area map and it was possible to locate areas fairly homogeneous for these physical factors within a type-of-farming area. Townships, apparently homogenous except for the presence or absence of oil, were compared by using census data. These data showed, according to the Chi square method of testing, that signifi-

cant differences exist between oil and non-oil townships. The proportion of land in farms is lower, and the percentage of tenancy as well as the percent of land rented is higher in townships having at least 25 percent of their area in oil fields. The same test shows highly significant differences in the average size of farms and in the number of days farm operators worked off their farms for pay. The average size of farm is smaller in the oil township and the number of days worked off the farm is greater.

While fairly wide differences were found to exist in the following comparisons, the Chi square test did not indicate significance. In townships without oil development, there is more farmland in cropland; a greater proportion of the cropland is planted to the principal crop of the type-of-farming area; and the average valuation of land and buildings per acre is higher. In townships with oil development, a greater proportion of the operators work off their own farms for pay and more of them work in non-agricultural pursuits. Non-census data showed that in 1936 corporations owned 5.4 percent of the land in oil townships, as compared to 3.9 percent outside the oil area. This difference is not particularly pronounced, but the distribution of corporate owned land varied widely within and outside an oil field. For instance, insurance companies owned 21.6 percent of the corporate land in the oil area as compared to 48.3 percent of the corporate land outside. Commercial banks owned 8.5 percent of the corporate land in the oil area and 22.9 percent outside. The Federal Land Bank owned 1.0 percent of the corporate land in the oil area, and 3.8 percent outside. Oil companies were the only type of corporation owning more land in an oil area than outside the area—41.6 percent as compared to .6 percent.

In an effort to verify some of these relationships, an intensive survey was conducted in one of the older oil areas of the State. The purpose was to make a comparative analysis of tenure, farm enterprises, and income within and outside an oil field. The area outside the field was carefully selected so as to minimize physical differences other than oil development.

Briefly, the results of the study¹ show that tenancy is more prevalent in the area of development than in an area used for control, 72.5 percent as compared to 57.5 percent. Owners of farms in the oil field have owned their farms for a longer time and there are fewer land sales. Apparently oil development tends to retard the advance of tenants into owner-operatorship, because the presence of oil so increases the value of land that few tenants can afford to buy. Tenancy is more stable in the area of develop-

¹Gregory, Edward, *The Effect of Oil and Gas Development Upon Land Utilization in the Garber-Covington Oilfield, Garfield County, Oklahoma*, Masters Thesis, Oklahoma A. & M. College, June 1947.

ment than in the area used for control. For example, 41.3 percent of the tenants in the oil area had lived on the same farm for 10 years or more as compared to 21.7 percent of the tenants in the control area having the same length of tenure.

Farmers within the oil area placed greater emphasis on livestock enterprises, than did farmers in the area used for comparison.

Agricultural income was somewhat lower in the area of oil development than in the control area, as was income arising from ownership of mineral rights. This latter appears to be a discrepancy but can be explained in this way. Income from leases and bonuses is still being received in the control area while such income in the oil field virtually ceased when the boundaries of the field were delineated. Lack of income from oil royalty in the oil area is accounted for by the fact that none of the owner-operators had oil production on his farm.²

Income from off-farm employment amounted to about \$120 per farm more in the oil area. Off-farm income was earned by 45 percent of the farm operators in the oil area, half of whom worked in the oil field, and 35 percent of the farmers in the control area, all of whom worked at farm labor.

The conclusion reached in this study was: the discovery and subsequent production of oil alters the basic land utilization in the area, directing the pattern toward greater tenancy, toward greater emphasis upon livestock farming, and toward slightly lower agricultural income for the average farmer.

Another factor in sub-surface land utilization which perhaps has a more indirect effect on the agricultural economy of an oil area is that of public finance.

When an oil field is discovered, there usually is an immediate expansion of the tax base in the form of personal property. In Oklahoma, tools and machinery used for exploration are classed as personal property. With this increased tax base there may come an increase in public debt so that public services can be expanded to meet the needs of an increased population in the area. In Oklahoma, the public debt is limited to 5 percent of the assessed valuation. Of course, if there is a stable tax base such a ratio is safe enough; but in most oil fields much of the personal property is moved as soon as the field is drilled in. This is not to say that the personal property will not be replaced by other types of property—but that cannot be depended on. One study³ showed that personal property comprised 30.4 percent of the tax base in a new field as compared to 8.7

²The sampling procedure may simply have failed to include such owner-operators in the sample.

³Parcher, L. A., "An Analysis of the Public Finance Situation in Rural School Districts in Oil-Producing Areas," *Current Farm Economics*, Oklahoma Agricultural Experiment Station, Stillwater, Vol. 15, No. 3, June 1942.

percent in an old oil area. It showed that personal property had an assessed value of \$14.38 per acre in a new field as compared to \$1.33 per acre just outside that field, and \$2.00 per acre in an older field. The per acre assessed value of all property was \$47.29 in the new field and \$18.72 just outside that field.

With the contraction of the tax base, the burden of any debt made on the basis of the expanded base eventually will fall on the property that is least mobile, land, unless the debt is retired at the same rate as the tax base contracts.

This subject is touched upon only briefly but the brevity does not indicate that the subject lacks importance. The fiscal affairs of oil producing areas appear to be a fertile field for study.

A subject that has received considerable attention in Oklahoma is the influence of mineral rights on land sales and price. Recently, the Agricultural Economics Department of the A. and M. College of Texas released a progress report of work on the same subject. Since most if not all the southwestern states have oil production, work done in Oklahoma and Texas might serve to direct the attention of research men of other states to interesting and fruitful research.

In order to arrive at some measure of the influence of mineral rights on land prices, all sales of land over a five-year period, 1941-45, in seven counties of Oklahoma were examined. Those sales transferring all, three-fourths, one-half, one-fourth, or none of the mineral rights with the surface were selected for study. There were 5,603 bona fide transactions falling in one of the five categories. Of this number 56.9 percent transferred all mineral rights; 8.0 percent, three-fourths of the rights; 22.0 percent, one-half; 2.9 percent, one-fourth; and 10.1 percent, none of the mineral rights. When the sample is weighted by arbitrary weights believed to be valid, then only 48.1 percent of all land sales in the state during this period conveyed all mineral rights. Twenty-seven percent of the sales conveyed half the minerals, and 13 percent of the sales conveyed none of the mineral rights. These percentages would be slightly lower if all fractional transfers were considered.

This division of property rights in the land may cause difficulties. The farmer who buys only the surface interest gains nothing from oil production found under his land. In fact he may lose something as he must relinquish as much of the surface as the owner or lessee of the sub-surface rights requires for the development of his interest. Not only may his fields be cut up into smaller tracts, but he may lose the use of a considerable portion of the land's surface. In Oklahoma the courts have held that a surface owner in such cases is entitled to compensation for only one year's crop. As a matter of practice, however, most oil companies find that prompt and generous settlement for damages gains them much in good will.

Separate ownership of mineral rights in a tract of land usually makes that land undesirable as security for a loan. There is of course good reason for caution on the part of lenders in such cases. The mineral deed holder, having prior right to the surface, may use enough of the surface to seriously impair the ability of the operator to repay a loan. The ability of the land to yield a rent might drop to little or nothing if much of the surface is utilized for oil operations.

Offsetting these risks is the fact that prices for the surface alone are considerably lower than when a fraction or all the minerals are transferred. If the land can be bought at a substantially lower price without the minerals, the risk of interference from oil production may be one well worth taking. It is difficult to envision Oklahoma ever having as much as 10 percent of its land area in oil—that would be over three times as much as it has at present. But supposing that 7 percent of the remaining non-oil producing land area of the State does eventually produce oil, the chance that any particular tract not now in an oil area would ever have oil on it would be at most seven in a hundred and probably much lower. Can the farmer afford to take the risk of buying only the surface? Perhaps he could if the risk of oil discovery on his place were the only problem to contend with.

What are some of the other problems that may arise from separation of part or all of the mineral rights from the surface? There are reasons to believe that title clearance problems and abstracting costs increase when such separation occurs.

It is common knowledge that mineral rights are frequently broken up into minutely small fractional shares. In Oklahoma, shares as small as an undivided $1/64000$ interest in a 160 acre tract, 25 ten-thousandths of one acre have been found. As a result there may be hundreds of persons owning an interest in a single farm.

The fact that there may be a large number of individuals with proprietary interests in the same tract creates a problem in title clearance in direct proportion to the number of owners. Moreover, mineral interests pass to heirs in the same manner as other types of real estate, with the result that there may be a great many *co-owners* of small shares of minerals. The difficulties that might be encountered in tracing these owners is apparent. The problem of title clearance might well lead to legal proceedings costing as much as the land is worth.

Abstracting costs usually are higher for land where part or all of the mineral rights have been separated from the surface. Every transaction involving real property rights is recorded. These recordings, copied in the abstract at a dollar a page, can run into sizeable sums. One abstractor tells of an abstract, for which he had charged \$1800, on an 80 acre tract where there had been minute subdivision of a fraction of the minerals. This is an exceptional case but illustrates the point.

If the value of the land is low it will not justify an expensive abstract nor much tracing of owners to clear the title. Of course, even high value land can bear only so much in the way of expenses for title clearance and abstracting. Even though the surface owner has none of the mineral interests these expenses must be borne by him if he wants good title or has to furnish an abstract.

Why, if this problem can become a serious one, do land owners sell any of their mineral rights? It is pretty hard for a farmer to resist what appears to be a tidy sum for just a small portion of his royalty interest, particularly if he is a little hard up. In areas where the chances for oil discovery appear to be small, the price is usually pretty low, maybe 3 to 5 dollars an acre. But the fact that chances for discovery *are* small may be an inducement to the landowner to get what little he can out of part of his minerals when the prospects are that he might never get anything. Land owners in "hot" areas who get up to \$1000 per acre or more for royalty frequently sell part of the minerals because they are unwilling to take the gamble that a producing oil well will be found on their place. They want someone to share that risk.

Do land buyers give conscious consideration to the mineral values when making a purchase? Studies in Oklahoma indicate that most of them do. In answer to a questionnaire, 98 percent of the purchasers of 75,000 acres of land said that the value of the mineral rights was considered before they decided how much they would pay. About one-third of the buyers said the mineral rights to the land purchased were valueless. The value the remainder of the buyers placed on the mineral rights on their farm ranged from \$15.33 per acre in one county down to \$2.53 per acre in another.

Apparently the hope or fear of oil discovery influences land owners and buyers in all parts of the State in setting a price on land and in stipulating the proportion of mineral rights to be transferred.

Data on 5,603 land sales involving 643,400 acres showed that land with all mineral rights transferred with the surface sold for about \$20 per acre more than did land with none of the minerals. When half the minerals were transferred, the price was about \$10 per acre lower than land with all the minerals. J. R. Motheral, of Texas A. and M. College, has found similar price differences in a study of one county in Texas.

In Oklahoma the question arose as to whether some of the difference in price might be accounted for by difference in quality of land. It was felt that buyers of better quality land might insist on more complete protection by obtaining all mineral rights. Insofar as assessed value reflects quality, this feeling was borne out. Land transferred with all minerals was assessed \$2.91 per acre higher than land sold with half the minerals. and \$3.58 per acre higher than sold with none of the minerals. An adjustment was made for land quality and the difference in price nar-

rowed to about \$5 per acre between all and half the minerals, and \$12 per acre between all and none of the minerals transferred with the land.

The difference in average size of tracts sold probably was not enough to influence price. Tracts sold with all minerals averaged 112 acres; with half the minerals, 118 acres; and with none of the minerals, 100 acres.

The question then is, "Can land buyers afford to pay the difference in order to get the minerals?" On the basis of data obtained from one county in Oklahoma, the chances are good that the added investment will yield a fair return.

One county was selected for an intensive study⁴ of income to land from mineral rights. It is an agricultural county with several small scattered oil fields. These fields cover approximately 3 percent of the land area of the county. In order to get some notion about the income to land from the mineral rights, a random sample of 250 quarter section tracts was selected for detailed study. This gave an 11 per cent sample after eliminating public land and urban areas from the universe. It is believed that the sample is representative of the county as a whole. The complete history of transfers of property rights of each tract was transcribed. Assuming the sample to be representative, land owners in this particular county have been amply repaid for any added investment they may have made in order to get the mineral rights. Since 1913 more than 25 percent of the land has been under lease at all times and from 1916 to 1930 more than half the land was under lease. During one year 73 percent was leased. Only two of the sample tracts were never leased. At the end of 1946, nearly one-third of the land was under lease for oil and gas. What has this meant in terms of income to land? For a 43-year period ending December 1946, the income to land for lease rent alone has amounted to nearly 7½ million dollars—\$16.77 per acre or 39 cents per acre per year. Added to that income, however, is the income from bonuses received for leasing. A bonus is an added consideration sometimes given as an inducement to sign a lease. The amount of the bonus, even if one is paid, is not always shown. However, using only the bonuses shown in each lease contract, it was found that bonuses totaled \$6.42 for each acre or an average of about 20 cents an acre per year. The yearly income, then from leases and bonuses alone over the last 43 years has amounted to at least 55 cents per acre for every acre in the county. This capitalized at 5 percent indicates that the average acre in the county is worth \$11 for the mineral rights. This figure is close to the reported standing offer of \$10 per acre by several local speculators for royalty any place in the county.

The question is, "Can the future income be predicted from what has

⁴Edwards, Roy V., *A Study of the Source and Distribution of Income Arising from the Ownership of Mineral Rights in Payne County, Oklahoma*. Masters Thesis, Oklahoma A. & M. College, June 1947.

happened in the past?" It depends on how far into the future one wants to predict. Income from leases and bonuses have dropped to 33 cents per acre over the last ten years, according to Edwards' figures. This is partly a result of a feeling of pessimism about future oil discoveries in the county, but probably the 33 cent per acre figure does not reveal the true picture. Beginning about 1926 more and more of the lease contracts made no mention of bonus. One local dealer in leases and royalties says that bonuses are still being paid. These bonuses are not always paid in cash. Instead, some service is rendered the landowner like repairing a fence or moving a building or drilling a water well. Some recent sales of school land leases in the county show \$50 per acre bonus in competitive bidding. There is no reason to believe that privately owned land, as favorably situated, would command a bonus much smaller than this.

It seems not unreasonable to believe that for the next 10 years at least, the average land owner in this particular county will continue to receive income from leases and bonuses amounting to a sum sufficient to justify the cost of obtaining all mineral rights when buying—or justifying the retention of mineral rights now owned. Taking land quality into consideration, it has cost buyers an average of \$10.45 per acre over the past five years to obtain all the mineral rights as compared to the cost of the land when none of the mineral rights were obtained.

There is one other source, an important one, of income accruing to owners of mineral rights. It is income from the sale of oil. The owner of the royalty interests gets one-eighth of the value of the oil produced. Income from this source in the study county amounted to \$14,430,494 from June 1918 to the end of December 1946. About one-fifth of this went to non-landowning speculators. On a per acre basis, the income to landowners has amounted \$32.25. The per acre figure is of little significance since income from this source has accrued to probably no more than 3 percent of the total acreage. However, assuming that every acre of land in the county received its share of the total income from all three sources: leases, bonuses, and royalties. Since 1918 every acre of land would have earned an income of \$1.47 each year because of the minerals under it. If data on royalty income were available for years prior to 1918, that income figure would be even higher, as oil was first produced in the county in 1914.

To summarize: all the relationships existing between oil and agriculture have not been discovered but research thus far indicates that oil discovery or the possibilities of discovery affects agriculture as follows:

1. Oil development retards progression up the tenure ladder to owner-operatorship in at least three ways: a.) There is an increasing reluctance on the part of owners to sell their land as chances for oil discovery become greater. b.) High prices due to speculative value puts land out of the reach of many tenants.

This may be at least partially offset by the fact that the surface alone can be bought at substantially lower prices. c.) Increased abstracting costs and problems of title clearance retard land transfers.

2. The potentiality of oil discovery causes higher land prices when mineral rights are conveyed. These higher prices probably are economically justified on the basis of income to land from leases and bonuses. While the value of undeveloped mineral rights on an individual tract cannot be determined, it may be possible to determine the income value of mineral rights over a broad area.
3. The actual discovery of oil not only expands the tax base but it changes the composition of the base by increasing the proportion of personal property. Excessive bonding of the taxing unit during this period may result in serious repercussions once the field has been delimited and drilling ceases.
4. Land utilization is affected in many ways. The size of farms remains stationary or contracts. A greater emphasis is given to livestock production and feed crops. The agricultural income per acre is lower but a type of organization which permits off-farm employment allows an income per person from all sources as high or higher than in adjacent areas without oil development.

The Soil Factor as Related to Health

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In the past few decades considerable emphasis has been placed upon soil conservation and there is still a great deal of work to be done. The most important phase of the work has to do with putting the known information into practice.

There are various ways in which soils are depleted: by erosion, by leaching, by loss of plant foods through plants, by deposition of poor material on good soil, by becoming diseased, and by being poisoned. Remedial methods have been studied and practiced to the extent that in almost every case a rather complete conservation program has been perfected to curtail the loss. The soil conservation service or county agents are equipped to give immediate information concerning control measures on soil depletion problems.

Each locality, however, presents slightly different soil problems and consequently more detailed study must continue. In these detailed studies many valuable relationships have been brought to the attention of specialists, not only soil specialists, but to chemists, biologists, zoologists, agronomists, pasture and range men, horticulturists, entomologists, pathologists, animal husbandry men, wildlife men and many others. All of these specialists can show how better human adaptation to the soils will result in better living and more income.

There are many studies and experiments completed and many being made at present which illustrate the relationship between soil conditions and nutrition value of products of the land.

Dr. William A. Albrecht, agronomist, of the University of Missouri, has done some outstanding work in this field. He has suggested that our nation is "starving to death," even though many maintain what is normally considered to be a balanced diet. The soil which produces our crops, in many places, has been leached of the essential food elements, and the necessary minerals and vitamins have not been supplied by the soil to the plants and in turn to the crops for human consumption. Dr. C. W. Cavanaugh, Cornell University, goes still further in stating "There is only one major disease, and that is malnutrition. All ailments and afflictions to which we may become heir are directly traceable to this major disease".¹ This statement may be open to question because of the presence of bacterial disease, but there is ample evidence supporting the belief that physical health is closely related to the kind of food consumed. All life, plants

¹*Soil, A Foundation of Health*, by A. P. Yerkes, Supervisor Farm Practice Research, International Harvester Company, p. 7.

and animals, as well as man, are affected. Experiments with flora and fauna on various soils should give valuable information on food for humans and the nutrition value of these foods.

Man is made up of proteins, fats, carbohydrates, mineral elements and vitamins. These, in various ways, are obtained largely from the soil. Some of the food and feed crops produced are frequently found deficient in these items. Soils usually contain sufficient of these complex substances for plant growth, but the amount present in plants varies widely and is closely related to definite symptoms of nutritional diseases. For example, the variation of most frequently deficient minerals in common food crops, as listed below, would be a good illustration.

VARIATION IN THE MINERAL CONTENT OF SELECTED FOOD CROPS²

Crop	Calcium (%)		Phosphorous (%)		Iron (milli./kilo.)		Iodine (parts/bil.)	
	Max.	Min.	Max.	Min.	Max.	Min.	Max.	Min.
Cabbage	1.78	0.41	0.77	0.13	305	11	791	16
Carrots	0.56	0.24	0.65	0.14	490	49	2,400	2
Lettuce	1.38	0.33	1.05	0.19	4,830	65	6,740	71
Spinach	2.78	0.51	1.17	0.27	1,750	54	48,650	19
Tomato	0.48	0.08	0.84	0.29	800	48	660	20
Turnip	4.75	1.49	0.82	0.14	2,483	140	676	111

The great variation in mineral content of common food crops is definitely an important factor in the human diet. In cabbage the percentage of calcium varies between 1.78% and 0.41%; phosphorous from 0.77% to 0.13%; the milligrams of iron per kilogram vary from 305 to 11; and of iodine the parts per billion vary from 791 to 16. The amounts of minerals available are extremely variable. The same is true of carrots, lettuce, spinach, tomatoes, turnip greens, and also for other foods. These factors should be considered in the adjustment of crop production to soils.

Certainly a better adjustment of crop production would be (1) proper selection of crops; (2) suitable sequence of crops in a rotation system; and (3) adequate use of fertilizer to increase the mineral content of crops produced.

A recent report³ by Dr. J. F. Fudge, Chief, Division of Chemistry, Agricultural Experiment Station, A. & M. College of Texas, gave the relation between the chemical composition of soils and the feeding quality of forage. Several thousand samples of typical Texas soils were analyzed by the Division of Chemistry. Of the various soil groups nitrogen averaged deficient in the soils of the East Texas timber area, West Cross timbers, sandier soils of the Rio Grande Plain, and in most soils of the Trans-Pecos area. Phosphoric acid, easily soluble, averaged very deficient in all soil groups except some alluvial soils and soils of the Trans-Pecos region.

²Compiled from data in U.S.D.A. Misc. Pub. No. 369.

³Nutrition Conference, 4-9-46, by Dr. J. F. Fudge. (A report "The Relation Between the Chemical Composition of Soils and the Feeding Quality of Forage").

Over a period of ten years over 12,000 samples of different kinds of grasses from different soils throughout Texas had been collected and analyzed. A large portion, from 63% to 74% in the various regions, of the samples showed a deficiency in phosphoric acid for range animals. The analysis showed a high degree of correlation between easily soluble phosphoric acid in the soil and phosphoric acid in young grasses. At later stages of growth the degree of correlation was considerably less than at the young stage of growth.

Dr. Fudge pointed out that experiments with the application of super-phosphate increased the yields or the percentage of phosphoric acid in the dry plant. The nature and degree of response varied widely with different grasses and soils.

Of major importance resulting from the use of super-phosphate is the greater production of beef per unit area. In one experiment with calves the total increase on unfertilized pasture was 33,135 pounds as compared to 60,192 pounds on a pasture where super-phosphate was applied. Not only did all experiments show considerable increases in weight where fertilizer was used, but cattle would forage in areas where fertilizer was used, even though grass was extremely short, and would almost abandon excellent stands of grass where fertilizer was not applied.

With this response of livestock to palatable and nutritious feed it should stand to reason that similar responses should result from human consumption of crops and products produced on soils that are supplied with the necessary elements.

Mr. Fred Hale, Chief of the Swine Husbandry Division of the Texas A. and M. College Agricultural Experiment Station, has made a most outstanding study and contribution in dealing with vitamin deficiency.⁴ In brief, Mr. Hale fed pigs on a vitamin A deficiency for several generations. It was found that when vitamin A was withheld from the diet for a sufficient period of time that pigs would suffer from disease of the eyes and in later generations would be born blind, without eye balls, with cleft palates, misplaced kidneys, subcutaneous cysts, and other defects. With abnormal pigs fed on rations containing vitamin A, normal pigs were produced.

There is a vast gap between pigs and people, but from the biological and nutritional standpoint, this gap is not so great. In Mr. Hale's experiment the nutritional conditions which brought about these abnormalities was extreme, but there is reason to believe that deficiencies in human food should be studied to curtail even minor appearance of the above mentioned abnormalities. Certainly vitamin A deficiency is by no means uncommon in the human diet. The starvation diet of war devastated areas

⁴"The Relation of Maternal Vitamin Deficiency to Microphthalmia in Pigs," by Fred Hale, Texas State Journal of Medicine, Vol. 33, pp. 228-232.

will no doubt result in many nutritional diseases. Some crops are much higher in vitamin A than others. Selected crops high in proteins, fats, carbohydrates, minerals, and vitamins should be grown on the soils that are now producing less valuable foodstuffs.

Physical health is closely related to the kind of food consumed. There are few, if any, who cannot remember some cases within their own first-hand observation or experience in which physical debility or illness resulted from eating. The kind of food consumed varies greatly in nutritional content, palatability and value. The variation in these foods is largely dependent upon the soil. This being the case the importance of the soil factor as related to health should be more widely recognized, completely understood, and definitely investigated.

Individualism in Modern Western Culture

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The word individualism, like any other symbol or verbal coin has become worn, refined, and transmuted by usage through the centuries. If the rise of modern individualism be traced to the Renaissance, its earliest manifestations were in an intellectual and spiritual release. If not concomitant, certainly, not long in following was the rise of an economic individualism which was to see its first flowerings in the Commercial Revolution, the national state, and mercantilism. This individualism, too, was release—release from the limitations of a static, medieval economy. This was a period of positive individualism which meant the release of the individual to re-form the social pattern so that it would satisfy the progressively growing demands which individuals were making economically, socially, and intellectually.

This early individualism which at the time of its inception was known as Humanism carried with it none of the connotation of the post-Industrial Revolution individualism. While Humanism may epitomize the spirit of the pre-industrial age, the new individualism was an individualism devoid of human qualities. The positive release of the Renaissance had given way to a negation of social values and a worship of individualism, per se. It was a depersonalized individualism best described by the popular Twentieth Century term, "rugged individualism."

The nature of the conflict between the "old" and the "new" individualism was manifest even as the cleavage between the pre-industrial and industrial cultures grew. Craftsmen did not accept the machine, symbol of the new, too readily. Even in later years the introduction of machinery has been considered a threat to the current way of life and has resulted in the actual destruction of machinery. The philosophy of men like Rousseau with their hankering after an idealized concept of the simple and pastoral represented a more romantic but equally real rejection of the new life to be ushered in on the heels of technological advance.

The new individualism, however, was not a conscious and directed movement as was the old. It was rather an offshoot of a dynamic social and economic revolution which uprooted earlier values. For when the first tremors of the new age of industrialism were past, there emerged not the menace of an accentuated individualism but rather the menace of standardization. The threat of the machine to individualism has been a subject of constant anxiety to the social philosopher.¹ Has the machine

¹See among many other writings on the subject, John Dewey, *Individualism Old and New*, (New York, 1930) and Charles A. Beard, *Whither Mankind* (New York, 1928).

so stamped the pattern of living that conformity to a routinized model is the only way? If then the immediate effect of the new industrial era was one of uniformity, how did the new individualism arise and prosper from a cultural change which superficially, at least, would seem to entail the very opposite effect?

This new individualism arose from the effects which a mobile and specialized industrial culture had upon established social institutions. Social scientists have painstakingly traced the breakdown of primary groups such as the family and their replacement with a myriad of secondary relationships. This diminishing of the familiar face-to-face contacts has made for an increasing isolation of the individual in Western culture. Moreover, the dissolution of the primary social institutions has taken place side by side with the growth of a competitiveness in the economic life of the individual which has made a fetish of "ruggedness" as a means of survival. The lack of social institutions which provide the basis of emotional security for the individual wedded to a mercilessly competitive economic system has thus produced a new individualism whose essence is the preservation of the individual.

To the modern man his neighbor has become an "unwarranted intruder," and his shrinking from intimacy with others satisfies a psychological need for "status preservation." The individual has thrown up about himself a wall-like mechanism by which he protects his "inner life . . . from the gaze or meddlesomeness of others."² In this way the individual shields himself from "competitiveness and its potential hostilities between fellowbeings."³ In a recent work Dr. Horney writes that one of the methods by which individuals resolve basic conflicts is by "moving away from people." She speaks of the "need for self-sufficiency" which results in an individual who strives to be totally independent, neither influenced by nor obligated to his fellows.⁴

What is the meaning of technology in the lives of these modern individuals who are becoming more and more isolated from the social milieu? While the machine was instrumental in producing a culture which threatened the individual and destroyed the remains of a previously static and secure social structure, today the machine bolsters the individual who, as Horney points out, finds satisfaction in independence and isolation. This machine makes possible this very independence and isolation.

Nowhere is this more apparent than in industry, itself. The worker has come to be viewed as a commodity, his relationships within the plant are highly impersonal, and the product of his labor, too, must not be

²James S. Plant, *Personality and Cultural Pattern* (New York, 1937) p. 122.

³Karen Horney, *The Neurotic Personality of our Time* (New York, 1937) p. 286.

⁴Karen Horney, *Our Inner Conflicts* (New York, 1945) p. 73ff.

influenced by his personality. As Mumford points out, "In handicraft the personal touch is emphasized, and the imprint of the worker and his tool are both inevitable; in machine work the impersonal prevails, and if the worker leaves any tell-tale evidence of his part in the operation, it is a defect or a flaw."⁶ Through standardization of the machine and its products the worker is protected. Nothing conspicuous will differentiate him from the mass and threaten him as an individual. He may participate in the productive process and still be withdrawn from it. "The fraction of shoe or shirt or chair or stove or what you will which is to be the outcome of his manipulation must meet a standard set by a rule from without, not a sense within of quality in workmanship generated by skill and taste and pride of craft. With the whole product the worker has no concern; in its character as a whole he has, consequently no interest."⁶

Though the machine economy reduced the satisfactions of the individual worker in the productive process, it did provide him with a greatly increased number of goods. The failure of society to create a cooperative system of production was paralleled by a failure to share the products and by a frenzied thirst for individual consumption. Veblen's concept of "conspicuous consumption" is accurately defined by Mumford as a compensation "by egocentric getting and spending for the absense of collective institutions and a collective aim."⁷ Thus does modern industrial culture foster the existence of an asocial individualism in both the production and consumption of its goods.

This asocial individualism has been extended into every avenue of life. While the introduction of machinery provided the basis of for a depersonalized culture, it also developed the shock-absorbers which permit individuals to function within its framework. Technology which has been influential in hastening the end of the primary group and isolating the individual, socially and psychologically, has provided the mechanisms by which individuals may escape from the group. Modern science has buttressed man in his position of splendid and self-sufficient isolation. The maxim, "untouched by human hands," has become a watchword of Western culture. From the baby, nourished by scientific formula, to the corpse in an air-tight casket, Western man has increasingly shielded himself from human contact.

The normal channels of daily communication no longer require any real face-to-face contacts. The housewife need not prepare her husband's breakfast. There are sufficient mechanical contrivances and prepared foods for him to do this easily by himself. She may purchase by

⁶Lewis Mumford, *Technics and Civilization* (New York, 1934) p. 350f.

⁶Horace M. Kallen, *Education, The Machine, and The Worker* (New York, 1925) p. 62.

⁷Mumford, *op. cit.*, p. 392.

phone or visit one of the large self-service markets or department stores where personal contact is at a minimum between shopper and merchant. New technological devices have made it possible for the housewife to see her caller without being seen. Thus an almost exact physical counterpart to her psychological draw-bridge has been erected.

The telephone call has replaced the short, informal, friendly visit even in rural areas. The telephone companies boast that they will save the business executive much time lost in personal contact. Checking systems and dictaphone companies advertise their prowess in obviating the wastefulness of person-to-person relationships. "While you confide your business to the handy microphone, your secretary is posted outside your door. She can get other work done, too—while taking your phone calls and steering off other interruptions." The wastefulness of human cooperation is a byword of modern industry, and the assembly-line, at which all may work together as individuals, is its symbol. For the news of the world modern man is no longer at the whim of the traveling troubador of medieval times. Nor is he dependent on town-crier or the colonial bill-boards around which everyone gathered. The daily crisp sheets of the newspaper and the cold impersonal voice of the newscaster have lent an almost exaggerated objectivity to an already none too friendly world.

The entertainment of theatre, concert, and fair have been exchanged for the cinema and the radio. Contact and identification with live entertainers have been superseded by impersonal media. The radio has by no means replaced the phonograph which has the advantage of being completely impersonal and independent. The portable radio permits the individual to enjoy entertainment and at the same time be divorced from any physical and social milieu. No other illustration of the isolated individual is quite so poignant today as the numbers strolling or sitting in parks and at beaches, each with his own portable set. Even the movies with hustle and bustle of the crowd must give way to television.

Mumford observes that the printed book contributed to the "dissociation of medieval society." "More than any other device the printed book released people from the domination of the immediate and local."⁸ This may have been the earliest of the post-medieval techniques to free the individual and provide an avenue of escape. Pre-technical escapes required the individual's actually setting up a physical barrier between himself and society. He might seek seclusion in the wilderness or join a protected community in a monastery. However, "so complete has the victory of the machine been during the last generation that in the periodic exodus from the machine which takes place on holidays in

⁸*Ibid.*, p. 236.

America the would-be exiles escape in motor cars and carry into the wilderness a phonograph or radio set."⁹

Travel, too, particularly in America has emphasized the individual. While in backward Europe the compartment for six or eight still exists, in America the individually adjustable seat is the norm, and the goal of complete isolation is attained for those who can afford it in the parlor-car chair.

Even so nominally social a field as social welfare has become obsessed with the efficiency of impersonalism. The American Public Welfare Association "Platform of 1947" recommends social insurance because "impersonality" is one of its "inherent advantages." Merely because our heredity of the English Poor Laws has made a negative value of personal concern does not mean that impersonality is a virtue, per se, and is to be more desired than real personal concern for the welfare of others in the community.

Finally, the inviolability of the individual in his sleeping moments has been protected by the institution of the twin-bed. Hollywood, the precursor of American culture, even further accentuates the individuality of the marriage partners by providing them with separate bed-rooms. Perhaps the success of the test-tube baby will herald the break-down of all personal relationships.

But it is not only in relation to this world that the new science has aided the individual in isolating himself. He has been weaned more and more from dependence on any supernatural power. The spirit of the Reformation reached its zenith in Deism. Here the concept of the personal god reached its fullest development. The individual was freed from any institutional approach to the supernatural. However, there was still recognition of a god concerned with the affairs of men.

Nineteenth Century realism with its roots in a Newtonian world-machine even impersonalized God. As Parrington remarks, this realism resulted in the "breakdown of theology and the slow drift from metaphysical idealism to scientific materialism. . . . With the pushing out of the frontiers of space and time, the discovery of a vast impersonal cosmos that annihilated the petty egocentric world and good and evil postulated by the theologians, the substitution of universal energy for a beneficent providence, the conception of a ceaseless flux and flow that took no account of teleological ends, the assumption of universal law and universal causality, the mind of America quitted its quiet theological retreats and set forth on a great adventure that was to carry far and the results of which were to unsettle what before had been sure."¹⁰ Parrington saw the reintegration of the individual into the

⁹*Ibid.*, p. 298.

¹⁰V. L. Parrington, *Main Currents in American Thought* (New York, 1927), vol. III, p. 192.

whole through the development of sociology, biology, and geology. It is very doubtful whether these sciences have been able to compensate for a loss of relationship with a supernatural being because of their impersonality.

What are the implications of this accentuation of an asocial individualism? Three observers with as different approaches as Mumford, Sorokin, and From have seen the roots of totalitarianism in this isolation of the individual. Mumford writes, "The secondary personal contact with voice and image may increase the amount of mass regimentation, all the more because the opportunity for individual members reacting directly upon the leader himself as in a local meeting, become farther and farther removed."¹¹

Mechanical media have taken the place of the critical censorship of the face-to-face discussion group. The casual and informal contacts of the market-place are no longer present to give opportunity to exchange viewpoints with one's neighbor. Instead the individual is overawed by the mechanically transmitted word. He cannot participate in the normal give and take which deflates any idea or person as effectively as the grave-diggers in Hamlet. Ideas divorced from personalities take on an authoritativeness and sacredness far beyond their worth.

Nor is he accustomed to being brought face to face with dominant personalities as was the case in the New England town meeting or the political stumping of Lincoln's era. And when he is brought in contact with politically aggressive individuals he has no means of critically judging them. His experience has provided him with no standards, and he is easy prey for the demagogue.

Sorokin in his "Social Mobility" saw the need which excessively isolated individuals would have for a "box-like" social structure which would give them definite positional security. From^M in his "Escape From Freedom" traces this need as a causal factor in the rise of fascism in Germany. The individual cut so completely adrift will react in the extreme opposite direction to compensate for his aloneness. Present-day Existentialist philosophy reflects a negative individualism which found its roots in the occupation and defeat of France.

Isolated from warm human relationships, modern man has come to rely more and more upon mechanical media for his emotional well-being. Deprived of the security of a cooperative culture, he must marshal the material forces at his command to meet the threat of a competitive, mobile world. There is neither the time nor the place for contemplation and soul-saving retirement. The struggle is everywhere. Even in war, itself, where other cultures met their enemies personally and felt

¹¹Mumford, *op. cit.*, p. 241.

of their strength as fellow-humans, the men of today bolster themselves with a brutal technology which compensates for their own inability to return the hostility of the world about them.

Book Reviews

Edited by—H. MALCOLM MACDONALD

Cortez A. M. Ewing: *Congressional Elections 1896-1944: The Sectional Basis of Political Democracy in the House of Representatives*. (Norman, University of Oklahoma Press. 1947. Pp. xiii, 110. \$2.00)

This book applies to elections to the House of Representatives the same type of statistical analysis used in the author's earlier volume, *Presidential Elections from Abraham Lincoln to Franklin D. Roosevelt*. The five sectional groupings East, Border, South, Middle West, and West are used in both volumes but the difficulty of assembling official figures for many of the earlier contests has made it necessary to limit the congressional study to the years 1896-1944. Most of Chapter I, entitled "Growth of Congress," is devoted to a description of the political characteristics of the sectional groupings.

From a comparison of the trends and votes in congressional and presidential contests throughout the United States the writer reaches the interesting conclusion that presidential elections are won by the party which already has control of the House of Representatives. It is no surprise to find that voting in congressional elections is consistently lower than in presidential contests. A study of the relative strength of the parties in the "battle of the constituencies" shows that Democratic support is distributed more generally throughout the United States than Republican, that successful Democrats generally receive a larger percentage of the votes than successful Republicans, and that third parties are becoming less important in congressional elections.

The meatiest part of the book is the analysis of votes and trends by sections, included in a final chapter bearing the somewhat misleading title "Evaluation of the Plurality System." To gain a majority in the House the Republicans must win a majority of seats in the East, Middle West and West; the Democrats, starting with an overwhelming majority of seats in the South and an advantage in the Border states, need to carry only 88 of the 278 seats in the remaining three sections to win. The author believes, however, that this "normal sectional pattern" of the past may not continue; the "Roosevelt party" may disintegrate, paving the way for "three strong parties," each sectional in its strength.

The book contains material which should be of interest and value to both the professional political organizer and the political scientist. A significant recent trend might have been brought out by the division of constituencies into urban and rural groups. Two important problems the writer recognizes but does not explore: whether "ideological" unity exists or is lacking among those running under the banner of the same

major party; and the extent to which those elected as Democrats or Republicans follow a "party line" after their election to the House.

The author's use of the terms "law" and "principle" (p. 24, p. 94) may be challenged. At times the discussion lacks sense of direction and incisiveness and is based upon value judgments rather than statistical evidence.

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Frank E. Vandiver (ed.), *The Civil War Diary of General Josiah Gorgas*. (University, Ala.: University of Alabama Press, 1947, pp. xiii, 208, Illustrations and cover map, \$3.00.)

Until recent years the name of Gorgas readily, though merely, recalled to mind the name of Colonel William Crawford Gorgas for the important sanitary work which he conducted in connection with the building of the Panama Canal. To University of Alabama alumni the name was associated also with the Gorgas Memorial Library and the Josiah Gorgas home on the campus at Tuscaloosa. In the last two years Mr. Frank E. Vandiver has made the name more widely known through the publication, in *The Journal of Southern History*, of "A Note on Josiah Gorgas in the Mexican War" (February, 1945) and "The Mexican War Experience of Josiah Gorgas" (August, 1947), and by the publication of the book here under review. When Mr. Vandiver's biographical study on Josiah Gorgas is completed the name will become still better known, and it is hoped by this reviewer that the author will set himself the task of writing a biography of William Crawford Gorgas and thus add still more to the glory and distinction which the name of Gorgas so richly deserves.

Mr. Vandiver had developed an intense interest in the important subject of Confederate ordnance before it was his good fortune to see and read the diaries and to secure permission to use them as the bases of the articles and the book mentioned above. The book is on only the Civil War years of the diary which Josiah Gorgas kept from 1857 to 1877. At the expense of much valuable time, Mr. Vandiver, with his untiring industry, could have gone through the *Official Records* and other sources and have discovered what problems Gorgas faced in his work of keeping the Confederate forces supplied with arms and ammunition. The reading of the Gorgas diary in the Library of Congress, where it "has been accessible to scholars" (foreword, v), was, then, a windfall because it saved the editor from laboriously working out the story and gave him much valuable time which he could and did use satisfactorily in the multitudinous tasks of editing the diary.

The work and worries of Gorgas as Chief of Ordnance of the Confederate Army do not constitute the whole story of this book. "Mr.

Vandiver has extracted the journal entries of the Civil War years for their interest as a contemporary account of life in Richmond during the war and as a personal commentary on military matters by one of the most competent Southern officers" (inside flap front cover). It is in what Mr. Vandiver has selected for this book that he shows how far and well his historical insight has developed. The book is exceedingly interesting and contains much information which generally is not found in print. There would have been no point in printing material that simply corroborates what has been so often read. It is the new material that challenges and retains the reader's interest. In point is the following passage: "The time is coming when it will be necessary to put our Slaves into the field and let them fight *for their freedom*, in other words give up a part of *the institution* to save the country, *or the whole* if necessary to win independence" (p. 142). Other passages could be cited and will be observed by every careful reader of this book.

Towards the end of the war General Gorgas began to see that the Confederacy would lose. A note of despair began to appear in his diary, but hope continued. On June 9, 1864, he recorded: "What the issue will be is in God's hands—nothing but an unforeseen event can, it seems to me, save us from the gradually rising strength of our opponents; or rather from the defeats our waning strength must entail" (p. 114). On January 25, 1865, Gorgas, after having been in apparent despair over some of the generals and also over President Davis's military ability, wrote: "I have outlived my momentary depression, and feel my courage revive when I think of the brave army in front of us, sixty thousand strong. As long as Lee's army remains intact there is no cause for despondency" (p. 166).

In thinking of President Davis, General Lee, and other government officials and military men, Gorgas had his moments of despair and hope, too. The following passages must suffice. On October 11, 1864, the diary received this entry: "He [Colonel R. H. Chilton] told me that General Lee said: 'If we can't get the men, all that is left for us is to make peace on the best terms we can.' . . . He must be subject to fits of despondence. Our brave President never wavers thus, in act or thought" (p. 146). On November 20, 1864, Gorgas wrote: "I fear the President is no military genius, tho' genius avails not much without resources" (p. 150). And now for a last, brief quotation: "It must be confessed that we are badly off in the council and in the field. Lee is about all we have and what public confidence is left rallies around him, and he it seems to me fights without much heart in the cause. I do him wrong perhaps, but I doubt if he believes we will or can succeed in this struggle" (p. 172). Alas! These, too, were times that tried men's souls.

In conclusion I want to emphasize that it was quite fitting that the University of Alabama Press publish this book. On at least two oc-

casions Gorgas noted his desire to go to Alabama, his "adopted state," to live (pp. 183 and 185). From 1865 to 1869 Gorgas lived at Ashby, Alabama, and from 1878 to 1883 at Tuscaloosa. In this last half decade of his life he was president of the University of Alabama from 1878 to 1879 and then, because of failing health, he became librarian. The University of Alabama has for the State paid partial tribute to Josiah Gorgas by naming its library in honor of his wife the Amelia Gayle Gorgas Memorial Library; the University of Alabama Press has rendered tribute to a former official of the University by publishing this book, which is pleasing in all respects; and Mr. Vandiver has paid tribute to a man of sterling qualities and noble character.

The University of Texas

Rudolph L. Bieseke

Ivan Ray Tannehill: *Drought: Its Causes and Effects*. (Princeton, N. J.: Princeton University Press, 1947, 264 pp. \$3.00).

J. H. Dorroh, Jr.: *Certain Hydrologic and Climatic Characteristics of the Southwest*. (Albuquerque, N. M., University of New Mexico Press, 1946, 64 pp. \$.75).

Misconceptions are widespread concerning climatic controls and related phenomena in the Southwest which, unfortunately, sometimes pervades the authoritative writings on our section. These two readily comprehended publications should clarify many doubtful points in scientific pursuances. Not that it is possible to provide all the answers at this time, for there are many questions posed by the authors themselves, but at least these books should form a sound basis for further inquiry.

In our region we have recognized the role played by the nearby moisture source regions of the Gulf of Mexico and the turbulent Atlantic Ocean in our precipitation distribution, while actually the remote quiet waters of the huge Pacific Ocean may be as significant a control. Tannehill methodically substantiates step-by-step his broad conclusions concerning the part played by the Pacific in drought occurrences.

A relatively cold Pacific causes our desert areas to enlarge and tends to reduce the precipitation, particularly in our Intermountain and Great Plains states and to a lesser degree in the Gulf states. Tannehill explains this conclusion as follows:

"When the Pacific is relatively warm at any season, and there are frequent movements of cold or cool air from Canada to the United States, the rainfall in the United States is increased. When the Pacific is relatively cold at any time of the year, the overflow into the continent is reduced. In this case cold air masses moving from Canada are infrequent and rainfall is deficient."

The drought years of the West in the nineteen thirties were heralded by a dry year in the southern portion of California. High pressures, an indication of lower temperatures in the Pacific Coast region, at Portland, Oregon, and San Diego, California, have brought drought years in the United States. The Portland influence is prevailing at Salt Lake City, Utah, where the Great Basin Anticyclone is prominent in November, December, and January continuously feeding dry air into the Southwest. The higher the barometric pressure in the Great Basin the drier the region. High pressure readings at Santa Fe, New Mexico, in May agreed with the national average rainfall in May. High pressure years in Santa Fe in that month denoted deficient rainfall and low pressure years above average precipitation in the United States.

The author, an eminent authority on climatic studies, also discusses the history of droughts, tree ring correlations, sun spot phenomena, and rain making possibilities. Appended are precipitation records by states from 1886 to 1940 and by months for the United States as a whole from 1886 to 1945. He has compiled also a comprehensive bibliography. Since the conditions in the West control the climatic variations in the East, he has concentrated his study in our portion of the country.

Research Project Supervisor Dorroh of the U. S. Soil Conservation Service has gathered the most recent and reliable information on the Southwest region. He explains the climatic conditions and shows the pattern of climate on prepared maps and charts. Furthermore, Dorroh describes the run-off characteristics of watersheds drawing conclusions somewhat at variance with classical concepts. His findings are substantiated further by eight tables and a description of his references. The writer had occasion to discuss most of the conclusions with the author and to verify some of them in the field.

These are both worthwhile books to use by anyone who is interested in understanding climatic fluctuations and human adjustments to these changing atmospheric conditions in the Southwest region.

Oklahoma A. and M. College

David C. Winslow

Joseph A. Roucek and associates: *Government and Politics Abroad*. (New York, Funk and Wagnals. 1947, pp. xi. 585. \$4.00.)

Planning the over-all structure of a textbook in comparative government is the most difficult problem in the writing of it. Dr. Roucek as editor and contributor has taken as his guide some of the conclusions of the American Political Science Association's Research Panel on Comparative Government, published in June 1944. He and his co-authors have undertaken to fuse various other disciplines with political science to illuminate the operation of a great number of governments, and, at

the same time, to write a contemporary history of events "as of the fall of 1946."

The section on Great Britain, written by W. L. Hindman, in addition to a treatment of the central government, deals with the little described areas of the commonwealth and the parts of the empire in transitional status, and all of this in the space of 110 pages. Floyd A. Cave has written the chapters on France, Germany, Russia, Italy and Switzerland. Dr. Roucek has contributed chapters on Spain, Portugal, Czechoslovakia, Hungary, Romania, Yugoslavia, Bulgaria, Greece and Turkey. T. V. Kalijarvi has written two chapters, one on the Scandinavian nations and Finland, and the other on Poland and the Baltic States. A chapter on Latin American governments was written by Glen E. Hoover.

Within the framework established by the editor, your reviewer finds, in the few fields with which he is acquainted among the many treated, that the authors have written well. The annotated bibliographies are brief, up-to-date, and exceedingly useful. With eighteen chapters on more than eighteen countries treated, in a total of 571 pages, the task of designing a valuable comparative government course with this volume as a text poses a knotty problem.

The University of Texas

Edward G. Lewis

Edith J. R. Isaacs, *The Negro in the American Theatre* (New York: Theatre Arts, Inc., 1947, pp. 143, \$3.75).

This is an *institutional* history of the emerging roles of Negroes in the traditions of the American theatre; it is hardly a modern parallel for James Weldon Johnson's *Black Manhattan*—more aptly, a *social* history. Johnson sought to weave into one fabric the story of the emergence and integration of Negroes' roles in the theatre and the broader story of their acculturation. Mrs. Isaacs, for a quarter of a century the editor of *Theatre Arts* magazine, is content to focus her attention directly upon the theatre as a creative art form. The more limited frame of reference is no handicap. It should, if anything, broaden the book's appeal: there is no related and lightly sketched theme to detract the attention of those readers who are primarily interested in dramatic arts; the story is well enough structured to stand for documentary purposes—for example those of social scientists interested in this specific pattern of Negro institutional behavior. Where instruction in race relations attempts the review of fine arts, this book indeed steps immediately into the range of principal sources.

Mrs. Isaacs has written a sympathetic account. It is spiced with critical insights which make it as much a story of how stagecrafts emerge as it is a chronicle of Negro development in those crafts. Over half a hundred splendid photographs extending from James Hewlett as Richard

the Third (c. 1821) to Pearl Bailey as Butterfly in *St. Louis Woman* (1946) add their part.

The history falls into quite clear stages: the sport origins of Hewlett's African Company; the minstrel tradition of James Bland and Stephen Foster with its stereotypes; the spirituals and the Blues; the burlesque and then the musicals down through *Finian's Rainbow*; modern adaptations of folkart as those of Dunham, Roberts, and Dafora and in contrast the secularized choreography of Primus; and the varied modern drama of bright light and what Mrs. Issacs calls tributary theatres: college and little theatre movements. The significant contribution lies in how these are linked. *Porgy and Bess* thus appears as the first American folk opera drawing on lines of antecedents including both *Emperor Jones* and *Shuffle Along*.

The whole chronicle is nicely summed:

"And so the story of the Negro in the American theatre today remains an affirmation of achievement—of many achievements—rather than a record of total victory. It marks brave, slow progress through difficulty and failure, through experiment and semi-failure, through many small successes to a new stretch of bright and open road. The goal may not be reached until it is no longer possible to isolate the story of the Negro from the much broader panorama of the American theatre as a whole, in which the Negro plays his part as actor, dramatist, citizen. But at least the road is open now."

Oklahoma A. and M. College

Paul B. Foreman

John H. G. Pierson: *Full Employment and Free Enterprise*. (Washington, D. C., Public Affairs Press, 1946, pp. vi, 183. \$3.00.)

Dr. John H. G. Pierson is one of the leading exponents of the school of economists that would achieve full employment primarily through underwriting and controlling aggregate consumer spending rather than through basic reliance on public investment as an offset to oversavings.

In the words of the author "the principle of underwriting the economy rests on the inference that underwriting the effort of private enterprise is better than continually meddling with it here and there, as long as private enterprise is supposed to be held in esteem." Dr. Pierson believes that the public investment offset approach to the problem of full employment suffers from three crucial defects (1) it is by itself inadequate to produce full employment and used in sufficient or approaching sufficient quantities discouraging to private investment (2) it impedes necessary public investment in normal times, such as hospitals and housing, by treating such investment as a postponable shelf and (3) it undermines free market determination of the allocation of resources.

While accepting the necessity and desirability of substantial public

investment in the fields of housing, public health, education and other social services, Dr. Pierson believes these should be approached on their merits and only incidentally for their impact on full employment. The primary effort of the government should be directed at the over-all maintenance of aggregate consumer spending at a level that will maintain full employment without inflation. A vigorous policy to maintain free competition and prevent the dissipation of the government guaranteed level of consumer spending through restrictive monopolistic policies on price and output is regarded as a necessary corollary. Some offset investment expenditures by government to mitigate severe fluctuations in the level of private investment are regarded as justifiable. But they perform a distinctly minor role.

Dr. Pierson seems to feel that adequate consumer demand by itself will insure full employment. Given the structure of our economy with its automatic saving and uneven rate of technological advance this seems more than doubtful. The necessary details of Dr. Pierson's insurance program are left in obscurity. Just how the government would make good on its commitment is only vaguely adumbrated. The author seems to feel that the impact of such a policy once publicly accepted by Congress on business expectations would be sufficient by itself. Alvin Hansen has dealt with this approach in some detail in his *Economic Policy and Full Employment*.

The twelve papers comprising this volume will amply repay the reading of them. They are a serious attempt to show how Free Enterprise may be made compatible with Full Employment. If the author has been sketchy on how to deal with restrictive practices by labor and industry that threaten his goal, he has at least shown the importance of that side of the problem. A guaranteed level of consumer income, plus the maximum amount of private enterprise that can be left competitive, plus government control where it can't, plus publicly supported social services might in the long run add up to a lot more freedom for the citizen, the consumer, and business than many think compatible with full employment objectives.

Western Reserve University

Norton E. Long

O. Douglas Weeks: *Research in the American State Legislative Process*. (Ann Arbor: J. W. Edwards, 1947, pp. 50.)

This research outline, published by the Research Committee of the American Political Science Association, was undertaken at the invitation and under the auspices of the Committee on Public Administration of the Social Science Research Council. It is designed to stimulate research in the legislative process by suggesting the variety and scope of

the problems in the field which are as yet inadequately examined and treated by research scholars.

The author is of the conviction that research has neglected the legislative process, particularly in the several states, and he has written an effective and persuasive brief for further examination of the subject, with much greater emphasis than has been common in the past upon objective on-the-spot study of the legislatures in action. His viewpoint is essentially an optimistic one as concerns the state legislatures; he deplores the subjective approach of research workers who have regarded "the legislature as something of an obstreperous anachorism, more or less, insusceptible to reform, which must be appeased, cajoled, or pressured, but which is in the main a meddlesome hindrance in the progress toward a streamlined form of government in which the administrator will play the principal role."

Mr. Weeks, by interrogatives, suggests an impressive and provocative array of possible research topics open for detailed exploration by investigators. The scope and variety of the topics suggested sharply indicate the paucity of our current information on the state legislative process. In the past two decades, with the much increased impact of Federal Governmental processes upon the life and activities of the people, research in Political Science has been primarily devoted to studies of the operations of one or more of the arms of the Federal Government, with especial emphasis on the administrative processes. Whatever the importance of such studies, there should not be such concentration thereon as to obliterate the importance of similar careful studies of the legislative processes in the states.

Study of the legislative process has long been part of the curricula of the Government departments of the Colleges, but relatively little examination of the subject has been made in the Law Schools, the spawning grounds for a considerable proportion of our state and federal legislators. The subject is noticeably absent from the curricula of a number of the Law Schools, and it plays a relatively insignificant role in the curricula of many others. Professor Weeks' short brochure is suggestive of approaches to the study which should be of considerable value to teachers in the Law Schools as well as in Government Departments of the Colleges.

The University of Texas

Howard R. Williams

William Godwin: *Enquiry Concerning Political Justice*. (Photographic Facsimile of the 3rd Edition. Corrected and edited by F. E. I. Priestley. 3 Vols., Toronto, University of Toronto Press, 1946. \$12.50.)

The reproduction of the third edition of Godwin's *Political Justice* is the first republication of the famous work since 1842 and, save for the abridged rendering of the first edition by R. A. Preston in 1926, con-

stitutes the only readily available edition for modern use. By making *Political Justice* again accessible the University of Toronto Press has done a commendable service to students and scholars in the field of the Social, Political, and Literary History of 18th century England. Few 18th century figures were as influential in so wide a variety of disciplines as was Godwin. Not only were his social, economic, and political concepts hotly defended and even more hotly attacked by writers in this field, but his doctrines served as a source of inspiration and stimulation to many of the "advanced" literary geniuses of his age. Despite the fact that the forces of anti-revolutionary conservatism soon overwhelmed his theories they still continued to leaven the loaf of liberalism and reform in England and America.

The publication of the text has been made especially valuable by the careful and scholarly editorship of Professor Priestley. In addition to a valuable essay in the third volume in which the philosophical assumptions and economic and political concepts of Godwin are analyzed and developed, Professor Priestley has included extremely useful critical and textual notes on the work as a whole plus an addendum containing the chapters omitted from editions subsequent to 1793.

This edition of *Political Justice*, attractively bound, well printed, and carefully edited is of significance to students of 18th century literature and social developments and deserves a place in the library of all institutions of higher learning as well as on the study shelves of students of the period.

The University of Texas

H. Malcolm Macdonald

A. D. H. Kaplan: *The Guarantee of Annual Wages*. (Washington, D. C., Brookings Institution, 1947, 269 pp.)

When the Steel Workers presented their 1945 demands to the National War Labor Board for a program of industry-wide annual wage guarantees, they transferred the problem from the field of individual company planning to a setting of national economic policy. Mr. Kaplan's concern with this latter phase of the problem sets his study apart from earlier investigations. The first half of the book, in attempting to bring the reader up to date on the problem, considers not only employer experience and worker attitudes, but also contains a chapter on the bearing of economic fluctuations on wage stabilization.

The author finds that most of the plans have failed, successful plans having been limited largely to firms with predictable seasonal or other short-term changes and engaged in the production of non-durable consumer goods. He concludes that extension of the plan from individual plants to entire industries would increase, rather than diminish the difficulties.

With respect to organized labor's position the conclusion is reached that, "Very few unions seem prepared at this stage to put their faith in comprehensive annual-wage guarantees on an industry-wide basis."

The chapter concerning the implications of economic fluctuation points out that the growth and expansion of our economy in the past has been characterized by great flexibility and fluctuation and concludes that stabilization, by requiring a shift to a more static system would entail a reduced freedom of choice in the expenditure of the consumer's dollar.

The second half of the study, which attempts to assess the probable impact of such a program on management-labor relationships, business practice, government policy and the general economic structure, constitutes the chief contribution of the present study. Mr. Kaplan concludes that a wage stabilization program would force unions to cooperate with management in defining the limits of the ability of a given industry to guarantee employment and in determining the size of the working force to be included in the guarantee. He foresees a tendency to freeze employment among the older workers and reduce opportunities for younger workers as an outcome of employer caution toward taking on additional obligations. Unions also would have to assume further responsibility in determining priorities against discharge and changes in eligibility for guarantees when the agreed limits of a plan were reached.

With respect to the effects of such a plan on employer policy the author holds that the tendency to limit labor force to those who can be continuously employed would limit production and force prices up during periods of industrial expansion. During periods of contraction, however, the existence of guarantees would tend to maintain production and intensify competition. This Mr. Kaplan considers bad because it might be expected to eventuate in greater rigidity in business practice and more price controls, as defensive mechanisms.

Rejecting the popular thesis that stabilization of wages, by maintaining consumer income, will regularize production and thus facilitate further wage stabilization, Mr. Kaplan insists that stabilization of production in capital goods industries is both impossible and undesirable. Similarly he holds that, "For the majority of Americans, stabilization of consumer purchases to conform with a predetermined pattern of employment overhead would probably seem a big price to pay in return for job stabilization."

Thus the argument amounts to saying that stabilization of employment cannot be established in our economy without serious modifications of our present practices and arrangements, modifications so radical that, in Mr. Kaplan's opinion, they constitute too heavy a price. He admits that stabilization may be "a valid program for those who desire it," and are willing to pay the price. But the author apparently fails to consider the possibility that the issues at stake are more basic than questions of

taste or preference. The issue of stability vs. instability is not a matter of preference but of economic survival.

North Texas State Teachers College

Sam B. Barton

Charles O. Gregory: *Labor and the Law*. (New York, W. W. Norton and Company, 1946. pp. 445. \$5.00.)

Though intended for both professional readers and those without legal training, this book cannot in any sense be termed popular. To this reviewer, it represents a task well done. Some discussions are not easy to follow, but legal terms are avoided and, when used, are defined for the uninitiated. There is shown throughout a refreshing lack of reverence for the makers and interpreters of law, but the reader is made aware of the function and the roots of law.

There are many who would take issue with the author on some of his general conclusions as well as on some of his corollary judgments, but no attempt will be made to do so here. A limited summary of the presentation is made in the hope that readers interested will recognize the book as one which they "must read."

Labor problems and labor law may be analyzed in terms of the institution of property, which has meant economic and political control over others. To insure the safety of property and freedom in its use, political, constitutional and legal forces of our organized life have given their primary care. Attempts to modify the institution have succeeded only where supervening need can be shown or political superiority demonstrated. Auxiliary to the defining of the concepts of property and freedom of contract, the pattern of labor relations has developed.

Early in the nineteenth century, American judges, following the lead of English courts, used the doctrine of conspiracy in condemning collective activities of workers to improve their status. They seemed, to judicial interpreters of the common law, to interfere with the operation of basic economic law and invade the rights of employers and investors who provided means of livelihood for the workers and trade for the nation. "The doctrine of conspiracy," says Mr. Gregory, served "as a formal vehicle—a legal abracadabra, if you please—in the name of which English and American judges had made labor unions conform to the principles of classical economics." (p. 30.)

In the United States during the nineteenth century labor matters were considered in general the business of the state governments. One line of development was amplified through decisions of the Massachusetts courts, which substituted for the assumption of civil conspiracy the illegal purpose doctrine. All or any associations of persons with the view of bettering themselves economically were legal "if they had no illegal object in

view." (p. 57.) The courts elected themselves as judges of proper or improper conduct.

The New York judiciary, representing a liberal trend, accepted the civil rights theory. It was not, they held, their function as judges to inquire into motives. Conduct lawful in itself could not become illegal because the court thought its purpose undesirable, but Mr. Gregory suggests "that pure economic coercion, ordinarily lawful in itself when designed to secure an objective even quite harmful but not illegal in itself, becomes unlawful when exerted to secure an end illegal in itself." (p. 92.)

While this line of development left to the employer criminal prosecution and tort action for damages as protection against his workers, the processes involved were long and troublesome. During the eighties a more effective weapon appeared, and American courts rapidly unfolded the idea that business interests were property and, as such, could be protected by injunctive action. Though use of this weapon violated our traditional attitude that people should be free to act or talk and be made to pay damages if any resulted from such freedom, the use of restraining orders against workers ran its course until the passage of the Norris-LaGuardia Act (1932). By this act laborers are brought within the purview of the "free enterprise" system and are at liberty to further their own interests without judicial interference. Coming as it did before the "New Deal period," the Norris-LaGuardia Act is the last monument to the spirit of "complete free enterprise for unions." (p. 197.)

The courts were active also in the sphere of judging specific activities of labor groups. Strikes and boycotts, both direct and secondary, passed under their scrutiny. Here they had little assistance from legislative bodies. The use of economic force to inflict damage is an unavoidable incident of the attempt of laborers to better their economic position. It is the price of determining wages in the competitive market. Our decision to accept a substantially "free enterprise" economy has been a political one based on a belief that "competition is worth all its costs." But all competitive activities adjudged desirable for business must as a logical deduction be available to workers. Any decision to limit or restrict should be made by legislatures. By undertaking in labor cases, specifically legislative tasks, the courts have often confused the issue, as in the tendency to develop a new "category of tort liability called 'unfair competition'." In pursuance of their assumed function, judges have attempted to differentiate legal and illegal strikes. The distinction, however desirable, should be made by representative bodies with the courts standing by only to declare the definition either within or beyond the constitutional powers of representative bodies.

On no issue have assays of the courts at legal delineation been more baffling than in cases involving the use of pickets. In the mind of the

Supreme Court as published in its decisions the place of "picketing" in the arsenal of economic weapons has never been clear. In 1937, Mr. Justice Brandeis wrote the opinion that where there was no legislative prescription, members of a union might make known the facts of a dispute as a matter of "freedom of speech" guaranteed by the fourteenth amendment (Senn case.) Three years later the court denied that the state of Alabama could make peaceful picketing unlawful (Thornhill case). But within five years the court had declared that peaceful picketing in a background of violence was illegal (Milkwagon Drivers v. Meadowmoor Dairies); had sustained an injunction under the Wisconsin Law (Hotel and Restaurant Employees Union v. Wisconsin Employment Relations Board); had set aside as denial of free speech an injunction against picketing from a New York court (Bakery and Pastry Drivers Union v. Wohl); had upheld an injunction by a Texas court (Carpenters and Joiners Union v. Ritter's Cafe). There is no longer assurance to either workers or the public that the court will decide in line with clear precedent. "Peaceful picketing either *is* or is *not* an instance of free speech under the Constitution. If it is then the union's right peacefully to picket Ritter's Cafe should have been upheld. But if it is not? . . . then what business has the court dealing with such matters at all?" (p. 361.)

Another issue with which the courts struggled was the application or non-application of the Sherman Act to labor union practices. The Congressional purpose behind the Sherman Act was to prevent suppression of competition (p. 216). For the negative control by refusal of the courts to enforce combination agreements, the Sherman Act substituted positive control by criminal punishment, injunction and damage liability.

By 1914, the courts had extended restraint of trade by unions to cover "mere conduct" (p. 209) (Danbury Hatters case). Congress attempted clarification by stating that labor is "not a commodity or article of commerce" (Clayton Act), but under the expanded definition mentioned above, the declaration was somewhat irrelevant and was so construed by the courts (Duplex Ptg. Co. v. Deering, Coronado cases, and Bedford Cut Stone v. Journeymen Stone Cutters). By "expert manipulation" (p. 216) a division between legal and illegal strikes was indicated, but since it was impossible for a labor union official to tell "which way the court would jump" the feeling grew that the court was hostile to all strikes.

Within three years after "freedom for union expansion through self help" had been legally established by the Norris-LaGuardia Act, an epoch closed. The National Labor Relations Act, by giving unions positive governmental protection for their organizing activities, lessened the pressure for self-help organizational tactics. It also severely limited the application of the Sherman Act (Hutcheson case). The account of

policy determination by the National Labor Relations Board should be read by all who are interested in the setting of basic national policy in regard to functions and responsibility of unions. Much of Mr. Gregory's discussion of conflicts between the Norris-LaGuardia Act and National Labor Relations Act and the effect of the latter upon the application of the Sherman Act is read now in a legal environment differing from that in which it was written. But the discussion is pertinent for a critical evaluation of the Taft-Hartley Act.

The final chapter, "Where Do We Go From Here?", is subject to the same comment. The "Here" in which this review is written is not the "Here" of the author.

But Mr. Gregory's closing comments are still valid:

"We must constantly remember at the outset that there is no logical or ultimate solution . . . any laws by which they (employer and labor groups) shall live and share the results of their common effort must conform to their joint views." (p. 444.)

Both must operate through government to articulate factional pressures into an orderly and mature process of law. Whether the policies laid down shall be workable and just depends upon the understanding which each citizen contributes in a real industrial democracy.

In attaining wisdom and understanding, time spent in reading this book will be more than merely rewarding.

University of Texas

Ruth A. Allen

Karl Barth: *The Only Way: How to Change the German Mind* (New York: The Philosophical Library, 1947, pp. 122, \$2.00.)

Frankly, this book looks like publisher's suckerbait: an attempt to capitalize on a catchy title and Barth's reputation—at a very fat price! While it is considerably better gotten out than other things The Philosophical Library has done—for example, the Gurvitch and Moore, *Twentieth Century Sociology*—it is cheaply printed. This with the fact that the copy is principally reprint material leaves little defense for the pricing of this little volume even in this day of inflation except in the adage about the wisdom of Barnum. There is of course a place in American publishing for one willing to play the role Alfred Knopf so long has pursued: willingness to take a flyer on a manuscript believed to be important, even though sales may be small and price high. But this isn't done with slapped together copy. A rose, says Gertrude Stein, is a rose is a rose.

This isn't even good Barth. The manuscript falls into two parts, translated by different persons—and edited not at all. The result could be but uneven. The literalness of the translation in places and the involved sentence structure puts a person whose German is as poor as mine

to grasping for what words and meanings in the original might have been. This sort of presentation ruins Barth. A good rewrite man could have worked this up for an American audience with no trouble at all. What's here isn't even good copy for the elite or even for the collector's item trade, if these were the publisher's intentions. Barth wrote these things for popular consumption—the first half was originally published by *The Manchester Evening News*.

His message, dated 1945, is simple: three premises should guide occupation policy; three others, German thinking in the postwar world. German military power must be completely and ostentatiously removed; the meaning of democracy must be driven home to the German people by the Western victors (not as teachers, but as friends; hence, *Christian Realism*) in such a way that they can see it work and be encouraged to try it on their own; in military occupation the German people should be made to share responsibility for maintaining public order as soon as possible. The German people must recognize their responsibility for war and chaos and seek to build the new Germany sans imperialistic aspirations; all German people must realize that the nationalism culminating in the Third Reich was *their own* responsibility; they must not only seek to live under the conditions of the peace but to *cooperate* in the family of nations.

If it is granted that Barth is writing here for popular consumption, certain points which look like grave methodological flaws may be just loose—or unfortunately translated—figures of speech. If they are this, one might ask whether or not a man of scholarship can get anywhere in the middle of this twentieth century by appealing to the masses through gross figures:

"In the life of individuals and nations, to be cured means: to become a little less ill . . . Among all the others the German people seem to be most seriously ill. It is therefore pertinent to ask oneself: how can the Germans be cured—that is, become a little less ill?"

This is not one whit better or worse than the sociology texts which proceed from "Societies believe—" and "Culture demands—" but when will it end? It won't certainly until such rubbish disappears from the contribution of scholarly minds.

One of these figures cuts so deeply into Barth's theory that it can hardly be explained away as popularizing. *The German mind, the German people, the true German spirit*—all used categorically, particularly in his theory of totally shared guilt—lend to these documents a peculiar tone which invites the idea that his abhorrence of German imperialistic ideologies has actually led him to believe in the reality of one German ethos and one German mind. Isn't this the very sort of ethnocentric stereotype which breeds and then nurtures imperialistic ideologies?

Oklahoma A. and M. College

Paul B. Foreman

John C. Calhoun: *A Disquisition on Government*. (New York, Political Science Classic, 1947, \$2.20.)

Throughout the history of Western political thought there has been a continually recurring thesis, at times pronounced, at times tacitly if nominally admitted, that government is the people's affair. In all societies in which the thesis becomes a true and dominant strain the problem of balancing a positive control of the resources of the community with the preservation of the integrity of lesser associations and of individuals becomes a very vital one. Any influence in the form of wise counsel which may help in the solution of the fundamental problem of the people's affair is to be cherished; for we of the Western tradition pride ourselves on the influence of men's ideas on the shaping of our social institutions.

Today many of our thinking countrymen see the fundamental problem of democracy intensified. A more positive intervention of government in our daily lives has become quite obvious, not only to the minds of theorists but also in the trend of contemporary history. At the same time, it is felt by many that the cleavage between political parties, as their differences are put on a more "realistic" basis, is becoming more factional than at any time since the period immediately prior to the Civil War.

During those antebellum years of economic and sectional division, emphasized by the industrial revolution and Jacksonian Democracy, John C. Calhoun proclaimed his solution for what proved to be irreconcilable factionalism. The theory of his views appears in his forthright and often neglected work, *A Disquisition on Government*. In evaluating such a book, one must examine the validity of the work in the light of the period in which it was written. Furthermore, if it is to contribute materially to a living democratic theory, one is forced to determine whether or not it is in phase with contemporary ethology and social institutions.

Calhoun set before himself the task of discovering by what means a government can "without being divested of the full command of the resources of the community, be prevented from abusing its powers." It is hard to understand how he preserves the full command of the government even in the early era of industrial development and social interdependence during which he lived. Calhoun's advocacy of the concurrent majority and the librum veto came in a period of modern history when such supplementation of limited government was being proved inadequate by the course of events not only in our own country but in Europe as well.

The author lived and wrote during the years of experimentation and expansion of the American party system. It was difficult, if not impos-

sible, for him to foresee in the structure of parties the representation of a multiplicity of sectional and economic interests in a manner much more fluid than that presented in his *Disquisition*. This method of representation, however, was clearly adumbrated, if not accurately anticipated, in Madison's *Federalist No. 10*. Calhoun may have stumbled upon the revolutionary theory of proportional economic representation, but it is not easy to discern what advance he made over the theorists of Greece and Rome. Also, in citing the examples of Rome, Poland and England to substantiate his theory he was guilty of what J. S. Mill, in his *Logic*, termed the "comparative" method—i.e., uncritical analogies with systems of different periods and circumstances.

If Calhoun's theory was inapplicable in the nineteenth century, it is doubtful that one could sustain its validity in a period accentuating the factors which rendered it untenable at an earlier date. There is definite need, at all times, for critical examination of the institutions of democracy in order that the essence of the creed may live. In this dynamic age, however, we can be sure that survival will not be found in conservatory, institutionalized devices.

For the solution of the problems of sixteenth century Italy, Niccolo Machiavelli, in *The Discourses*, returned to Republican Rome. Moreover, in his methodology he could devise no other means of attaining his ideal republic than that of the paradoxical medium of an iniquitous Prince. The works of Machiavelli are significant in the study of political theory particularly for their historical interest and for being examples of pseudo-science in politics. The theory of Calhoun is of interest to the student of political science for similar reasons.

The course of events has placed the theory of Calhoun on the shelves of history. Its position there has undoubtedly been to obscure, despite the efforts of Walter Fleming and his disciples who have taken their stand today in an attempt to give new meaning to a lost cause. A new edition of any of Calhoun's works, if reasonably priced, should be greeted gladly by those interested in history and government. Unfortunately, however, its appeal would be limited; for the student will be quick to discern the distinction between a viable political science and worship of the ancient.

University of Texas

Walter E. Jenkins, Jr.

William E. Livezey: *Mahan on Sea Power*. (Norman, Oklahoma, University of Oklahoma Press. 1947. 334 pages. \$3.50.)

At a time when it has become the fashion among certain commentators to decry the teachings of Alfred Thayer Mahan, historian Livezey has performed a valuable service in bringing the sea power philosopher's main ideas together in a single volume for re-examination and reappraisal.

The task cannot have been easy, for during the quarter of a century preceding his death in 1914, Mahan continuously expounded his opinions by means of lectures, letters, magazine articles, and a series of volumes on sea power and its influence upon history. These opinions Livezey has searchingly examined, first against the background of the times for which they were written and then in the light of subsequent events.

Mahan's underlying thesis, drawn from a study of the diplomacy, commerce, and wars of the period of England's rise to world power and first set forth in *The Influence of Sea Power upon History, 1660-1783*, is divisible into two distinct but related theories, (1) that sea power in the form of mercantilist imperialism has been the basis of national greatness, and (2) that concentration of naval forces, as applied in the doctrine of battle-fleet supremacy, is vital to national interests and security. Such a thesis, so aptly timed, found a ready audience. Mahan became an acknowledged publicist-propagandist and philosopher of force to the expansionism which marked the turn of the century and presaged the era of worldwide conflict to follow. Policy-makers of Great Britain, Germany, and Japan, as well as of the United States, looked to his writings for support and justification in their new imperialism and accompanying contest for naval supremacy. "Mahan interpreted his age to itself," says Livezey, "and that age of competitive navalism, rampant with imperialism, virulent nationalism, and lawless militarism acclaimed him seer and champion."

America's sea power philosopher lived to see his advice to his own country translated into action in the form of predominance in the Caribbean, ownership and control of an Isthmian canal, acquisition of Hawaii, equality in the Far East, and a navy employing sound strategic principles and second in size only to Britain's. But the Mahanite expansionist doctrine, so eagerly heeded during the author's lifetime, has since fallen into some disrepute. Society today is less ready than formerly to countenance seizure of territory on the pretext of "superior fitness to exploit" on the part of the aggressor, to admit the necessity of recurrent war as a "regulator and adjuster" of human affairs, or to concede that "step by step man has ascended by means of the sword." A subject of criticism too has been Mahan's contention that the rise and fall of modern nations rests upon sea control. Livezey, joining the critics, lists other factors such as the development of efficient overland transportation and points to Russia as a conspicuous exception to the Mahanite thesis. At the same time he stresses Mahan's continuing influence as an interpreter of history, noting that both Mackinder and Haushofer, though their conclusions differ sharply from those of their precursor, are beholden to him for inspiration and method.

Although Mahan as a strategist has been frequently attacked by present-day writers, Livezey on this subject comes confidently to the defense.

He agrees with the sea power philosopher that though technological developments tend to alter tactics, the principles of strategy remain intact. This contention he supports with evidence from both World Wars. In the early part of World War II, for example, both the United States and Japan, because of various limiting factors, broke up their naval forces into separate tactical formations and employed a scattered "task force" strategy. By the end of 1943, however, the U. S. Fleet, able at last to return to the Mahanite principle of concentration, quickly obtained sea control and within a year swept across the Pacific from the Gilberts and Marshalls to the inner defenses of the Japanese Empire.

U. S. Naval Academy

E. B. Potter

Howard W. Odum: *Understanding Society: The Principles of Dynamic Sociology*. (New York, The Macmillan Company, 1947, pp. vi, 749, \$5.00.)

In this textbook for introductory sociology courses Professor Odum assumes the position that sociologists must in addition to attempting to analyze society come to its aid, since it "is in a state so disordered and so baffling that it cries for a reasonable and scientific sociology to rise to its needs." "Sociology," he states, ". . . seeks to understand society not only for its own sake but in order to point the way to the development of a more adequate mankind in a richer social order." He holds that "The application of the principles of sociology to the society of the United States . . . is one of the main phases of our sociology."

The book is divided into thirty-eight chapters organized in seven major sections. Included in the 722 pages of the text proper are 277 pages devoted to "Library and Workshop"—sections appearing at the close of each chapter (except the first two) which include subdivisions: Assignments and Questions, Graphic Presentations, Special and General Readings, and Social Process, Social Action and Social Organization (in which suggested study is pointed toward various programs, activities, etc.). Over one hundred photographs and sixty-five charts and maps, usually found in "Library and Workshop" sections, mark one of the striking features of the text.

The theme that sociology is the science of society is introduced in the first major section which further indicates how students may be encouraged to understand social organization. In the second part human and natural resources are discussed in a development which emphasizes a regional framework as the basis of American society. This is followed in part three by a differentiation between categories of culture and society. Here Odum develops a perceptive analysis of folk culture. The emergence of the state, city, industry and what the author calls technicways are traced in part four. Materials on demography and on the in-

dividual in relation to social institutions and agencies comprise part five. Numerous social problems clustering around technological change, social control, government, economic behavior, classes and regions are considered in part six. In the final section the relation of social research and theory to social problems is discussed.

This book reveals the author's unusual insight into American society which has long motivated the Chapel Hill group. It demonstrates both Odum's orientation and zest for research. Indeed, his chapter on research is almost a new departure for introductory texts. From present point of view the book does have serious limitations. The style is uneven and in places this breeds loose use of evaluative adjectives in no way related to Odum's points. Frequently the script looks as if it might be hurried first draft material. Numerous loosely connected citations appear here and there in the body of the text. Certainly the volume plays regionalism and the labored "technicways" theory beyond their roles in general sociological theory. By this same token important areas of sociological knowledge are slighted: Cultural dynamics, collective behavior, social interaction, and much of current ecological theory.

These remarks do not imply that the book deserves little attention, but it might be used better to document the Odum approach in American sociological theory for advanced students or as a source manual for social pathology than as an introductory text. A careful reading supports the conviction that one boon to instructors and to students in introductory sociology courses would result if publishers could hold manuscripts to about half the size of this volume. It might lead to sharper organization.

Oklahoma A. and M. College
James E. Montgomery

Other Books Received

- Barth, Karl: *The Only Way*. (New York, Philosophical Library, 1947, pp. 122. \$2.00.)
- Bartlett, R. J.: *The Record of American Diplomacy. Documents and Readings*. (New York, Alfred A. Knopf, 1947, pp. 731. \$6.00.)
- Bliss, John A.: *O.P.A. and the Public Utility Commissions*. (Washington, D. C., O.T.C. General Publication No. 5, 1947, pp. 93. \$0.25.)
- Bureau of Business Research, University of Kentucky: *Southern Manufacturer's Tax Bill*. (Lexington, Bureau of Business Research Bulletin No. 13, 1947, pp. 88.)
- Bye, R. T. and Hewett, W. W.: *Applied Economics*. 4th Ed Revised. (New York, F. S. Crofts & Company, 1947, pp. 718.)
- Caplan, Benj. (ed.): *Problems in Price Control: Changing Production Patterns*. (Washington, D. C., O.T.C. General Publication No. 9, 1947, pp. 441. \$0.75.)
- Carsel, W.: *Wartime Apparel Price Control*. (Washington, D. C., O.T.C. General Publication No. 3, 1947, pp. 201. \$0.40.)
- Civilian Production Administration: *Industrial Mobilization for War. Vol. 1—Program and Administration*. (Washington, D. C., C.P.A., 1947, pp. 1010. \$3.75.)
- Clarke, H. I.: *Principles and Practice of Social Work*. (New York, D. Appleton-Century Co., 1947, pp. 450. \$3.50.)
- Commission on Freedom of the Press: *A Free and Responsible Press*. (Chicago, University of Chicago Press, 1947, pp. 139. \$2.00.)
- Craven, A. and Johnson, W.: *The United States, Experiment in Democracy*. (Boston, Ginn & Co., 1947, pp. 886. \$5.00.)
- Denhardt, R. M.: *The Horse of the Americas*. (Norman, Oklahoma, University of Oklahoma Press, 1947, pp. 286. \$5.00.)
- Fischer, Louis: *Gandhi and Stalin*. (New York, Harper & Bros., 1947, pp. 181. \$2.50.)

Flynn, Ed. J.: *You're The Boss*. (New York, Viking Press, 1947, pp. 244. \$3.00.)

Garver, F. B. and Hansen, A. H.: *Principles of Economics*. 3rd ed. (Boston, Ginn & Co., 1947, pp. 463. \$4.75.)

Hiller, E. T.: *Social Relations and Structures*. (New York, Harper & Bros., 1947, pp. 642. \$4.50.)

Johnson, Claudius O.: *American National Government*. 2nd ed. (New York, Thomas Y. Crowell Co., 1947, pp. 689, \$3.50.)

Kershaw, J. A.: *A History of Ration Banking*. (Washington, D. C., O.T.C. General Publication No. 2, 1947, pp. 150, \$0.35.)

Kirk, Grayson: *The Study of International Relations in American Colleges and Universities*. (New York, Council on Foreign Relations, 1947, pp. 113. \$2.00.)

Konvitz, M. R.: *The Constitution and Civil Rights*. (New York, Columbia University Press, 1947, pp. 254. \$3.00.)

Lindsay, A. D.: *The Modern Democratic State*. Vol. I. Preface by W. Y. Elliott. (New York, Oxford University Press, 1947, pp. 286. \$3.00.)

MacKay, Kenneth C.: *The Progressive Movement of 1924*. (New York, Columbia University Press, 1947, pp. 298. \$3.75.)

Meriam, Lewis: *Relief and Social Security*. (Washington, D. C., The Brookings Institution, 1947, pp. 912. \$5.00.)

Millett, John D.: *The Process and Organization of Government Planning*. (New York, Columbia University Press, 1947, pp. 187. \$2.50.)

Moffat, J. E., Christenson, C. L., and Associates: *Economics, Principles and Problems*. 4th ed. (New York, Thomas Y. Crowell Co., 1947, pp. 841. \$4.25.)

Nathanson, W. L. and Leventhal, H.: *Problems in Price Control: Legal Phases*. (Washington, D. C., O.T.C. General Publication No. 11, 1947, pp. 106. \$0.25.)

Office of Price Administration: *Studies in Industrial Price Control*. Ed.

- by H. C. Mansfield. (Washington, D. C., General Publication No. 6, O.T.C., 1947, pp. 181. \$0.35.)
- Putnam, I. H.: *Volunteers in O.P.A.* (Washington, D. C., O.T.C. General Publication No. 14, 1947, pp. 166. \$0.35.)
- Robinson, Jacob: *Palestine and the United Nations.* (Washington, D. C., Public Affairs Press, 1947, pp. 269. \$3.25.)
- Roussett, David: *The Other Kingdom.* (New York, Reynal-Hitchcock Inc., 1947, pp. 173. \$2.75.)
- Schramper, Wm. H.: *The Law of Business.* (New York, Rinehart Co., 1947, pp. 679. \$4.50.)
- Soule, George: *The Prosperity Decade.* (1917-1929) Vol. VIII of *The Economic History of the United States.* (New York, Rinehart & Co., Inc., 1947, pp. 365. \$4.00.)
- War Production Board: *Copper Policies of the W.P.B.* (Washington, D. C., Special Study No. 29. W.P.B., 1947, pp. 198.)
- War Production Board: *Import Policies and Programs of the W.P.B.* (Washington, D. C., Special Study No. 30. W.P.B., 1947, pp. 253.)
- Wilson, W. G., Hart, J. A. and Taylor, G. R.: *The Beginnings of O.P.A.* Washington, D. C., O.T.C. General Publication No. 1, 1947, pp. 246. \$0.50.)
- Zimmerman, C. G.: *Family and Civilization.* (New York, Harper Bros., 1947, pp. 829. \$4.50.)

News Notes

The Missouri Society of Farm Managers and Appraisers held its third annual conference at the University of Missouri, Columbia, in connection with a one day short course for Farm Managers conducted by the College of Agriculture, October 31. Sixty-five members and others interested in this field were in attendance. Dr. W. G. Murray, of Iowa State College, was the chief speaker.

The Missouri Agricultural Experiment Station, expanding its marketing research program, has added to the research staff in marketing one full professor, Mr. J. R. Paulling, who will give major attention to research and extension work in the marketing of cotton; and two instructors, Mr. Elmer Kiehl and Mr. J. W. McKinsey.

After a war-time lapse, the Louisiana Personnel Conference was re-instituted on the Louisiana State University campus, May 17, 1947. Registration totaled 135, representing numerous industries and businesses of the state. Group meetings were held for heavy industry, banking, and retailing. The program was prepared by Dr. Karl D. Reyer. For the coming year Dr. T. H. Cox, Professor of Management, will be in charge.

The Oklahoma UNESCO Conference was held on the North Campus of the University of Oklahoma, December 12-13, with over 700 registered delegates from colleges, schools, and professional groups in the state. Principal speakers were Eugene S. Briggs, President of Phillips University, Enid, Oklahoma; Charles Thomson, Executive Director, UNESCO Relations, Department of State, Washington; and Ben M. Cherrington, Director, Social Science Foundation, University of Denver.

New members of the Economics staff, North Texas State Teachers College, are Dr. R. B. Melton, formerly of the University of Arkansas, and Mr. D. W. Shelton, formerly of New York University.

Six new faculty members have joined the staff of the College of Commerce, Louisiana State University. They are: Dr. Harold J. King, Professor of Economics in the Field of Labor, Dr. De Witt C. Watson, Associate Professor in the field of Commercial Aviation; Mr. J. R. Young, Lecturer in Insurance; Mr. D. M. Smith, Jr., Instructor in Accounting; Mr. Milton Goldberg, Instructor in Business Law; and Mr. C. O. Chowning, Instructor in Business Administration. Mr. A. J. Penz has resigned to join the Accounting staff of the University of Alabama.

The Bureau of Business Research, University of Kansas, reports that

Esther Dudgeon has been made Assistant Director. Walter A. Bowers, formerly of the Bureau, is now the President of Utopia College, sponsored by Roger Babson.

Herbert E. Simison, graduate of the University of California at Los Angeles and geographer from the U. S. Bureau of Reclamation, has joined the Department of Geology and Geography at the University of Tulsa.

The A. and M. College of Texas announces the addition to its faculty of full Professor Dr. Karl E. Ashburn, formerly Head of the Department of Economics, Southwest Texas State Teachers College, Associate Professor Aurelius Morgner, formerly Lecturer in Economics at Northwestern University, Evanston, Illinois; Mr. Kenneth E. Grubbs, Instructor in Economics, formerly Instructor of Economics at North Texas State College at Denton, Texas.

Five new instructors have joined the Department of Political Science, University of Kansas: Mr. James Drury, Miss Marian Ridgeway, Mr. Russell H. Barrett, Mr. John Conard, Mr. Rhoten A. Smith.

Professor Seba Eldridge who was on leave of absence during the academic year 1946-47 has rejoined the department of Sociology at the University of Kansas. Dr. Eldridge is preparing for publication a textbook in Sociology on which Professor Carl Rosenquist, University of Texas, and Professor Harold A. Gibbard, University of Kansas, are collaborating. Dr. E. Jackson Baur, formerly of the Veteran's Administration, has joined the department as assistant professor. Mr. Carl S. Smith who is this year completing his doctorate at Columbia University, has joined the department as assistant professor of Anthropology and Archaeology. He will also serve as assistant curator of Dyche Museum. New instructors in the department are Mr. Robert Witt, Mr. Laiten Camien, and Mrs. Louise Cochran. Assistant instructors are Mr. Walter H. Crockett and Mr. Francis W. Spencer. Dr. Marston M. McCluggage, associate professor of Sociology, is on leave of absence this semester at Harvard University where he is associate in Human Relations in the Harvard Business School. He will return to his academic duties at Kansas for the Spring semester. Associate Professor Hilden Gibson, who was on leave of absence at Harvard during the academic year 1946-47, has rejoined the staff, and is directing the case studies in Human Relations. Collaborating in these studies are Dr. Carroll D. Clark, Chairman of the Department of Sociology, Dr. Edward O. Stene of the Department of Political Science, and several assistants. During the current semester, two sections of an experimental course, *Cases in Human Relations*, are being offered. The University of Kansas is collaborating with Harvard University, Colgate University, and Ohio

University in the development of this course as part of a program of general education.

The two-year graduate curriculum of the Department of Social Work, University of Kansas, under the Chairmanship of Professor Esther E. Twente, has been provisionally accredited by the American Association of Schools of Social Work. The second year of this curriculum is offered at Kansas City, Kansas, and has absorbed the former work offered there by Washington University.

Woodrow W. Wasson has been appointed professor of American History at East Central State College, Ada, Oklahoma.

Miss Jane Carson, instructor, and Mr. Francis James, Associate professor, are now members of the faculty of Sophie Newcomb College.

John R. Bertrand, Associate Professor of rural sociology, has been made Assistant Dean of the School of Agriculture at Texas A. and M. College. Mr. Bertrand will continue to teach a limited number of courses in rural sociology.

The Texas Agricultural Experiment Station announces the addition of three new staff members: Marion N. Williamson, Jr., economist in farm management, who will specialize in studies on the economic aspects of the mechanization of cotton and related crops; Kenneth A. Fugett, research marketing specialist in fruits and vegetables; and Ralph H. Rogers, Agricultural Economist with the Bureau of Agricultural Economics, who has been assigned to assist with the farm management research program, giving special attention to a study of the economic aspects of farm mechanization at the Texas Agricultural Experiment Station.

Clarence W. Lokey received in August the first Ph. D. degree to be awarded by the reorganized Department of Agricultural Economics and Sociology at the A. & M. College of Texas. His thesis was entitled "A Study of the Economic and Social Aspects of Cooperation in the Danevang, Texas, Community."

Dr. J. G. McNeely and David G. Steinicke have been added to the staff of the Department of Agricultural Economics and Sociology at Texas A. & M. College. Dr. McNeely was formerly area representative for the Labor Branch, PMA, at Lincoln Nebraska. Mr. Steinicke did his work for the B.A. and Master's degrees at Southern Methodist University and has completed two years of graduate work in sociology at the University of Wisconsin.

Daniel Russell, of the Texas A. & M. Department of Agricultural Economics and Sociology, was elected President of the Texas Social Welfare Association at its annual meeting held this year at Austin on November 21.

Mr. Carl B. Danielson, formerly a graduate research assistant in the Department of Agricultural Economics at Louisiana State University, reported for duty on November 1, 1947 as an assistant economist in the Department of Agricultural Economics at Mississippi State A. and M. College at Starkville.

Kenneth E. Ford, Research Associate in the Department of Agricultural Economics at the Louisiana State University resigned December 1, 1947 to accept a position as Associate Economist in Marketing with the Agricultural Experiment Station located at Experiment, Georgia.

The Association

We regret to announce the death of Professor J. Linus Glanville, Second Vice-President of the Association, at Dallas, November 18. Professor Glanville was one of the southwest's outstanding historical scholars and has been an active supporter of the Association for many years. He was born in Cooper, Texas, August 28, 1895; received his academic training at Southern Methodist University and Johns Hopkins. He had served on the history staff at Southern Methodist since 1925, and held grants in aid from the Social Science Research Council in 1935 and 1941, working chiefly in the fields of Italian colonial and foreign policy, and contemporary international relations.

The Executive Council of the Association announces that the 1948 meeting will be held at the Baker Hotel in Dallas, on March 26-27. The Executive Council will hold its preliminary session on the evening of March 25. The Baker management has communicated the following schedule of room rates: single rooms, \$3 to \$8; double rooms, \$5 to \$8; twin-bed rooms, \$6 to \$8. Members are advised to make their reservations early.

Five new panel sections have been selected for the 1948 meeting of the Southwestern Sociological Society. These with their chairmen are as follows:

Social Psychology: W. L. Kolb, Sophie Newcomb College, New Orleans

The Family: R. T. McMillan, Oklahoma A. & M. College, Stillwater

Minority Groups: S. B. Kovaks, Tulsa University, Tulsa

Regional and Urban Studies: H. E. Moore, University of Texas, Austin

The Teaching of Sociology: C. N. Burrows, Trinity University, San Antonio

Members of the society who will have projects for review in the spring are asked to advise the section chairman in whose panel the papers might appear. Society members are also asked to inform section chairmen if they are aware of possible papers from other members of their departments or other members of their faculties. Section chairmen are particularly interested in giving scholars who have recently moved into the Southwest full opportunity to participate in these sessions. If possible contributions cannot be arranged in the categories of interest implied by the panels named for the coming convention, it is suggested that information concerning them be sent directly to Paul B. Foreman, Oklahoma A. and M. College.

The Executive Council of the Association announces the appointment of the following committees:

Nomination of Officers

Carl M. Rosenquist, University of Texas, Chairman; Pearce C. Kelley, University of Arkansas; Hugo Wall, University of Wichita; Karl Reyer, Louisiana State University; E. C. Burris, Oklahoma A. and M. College; Francis R. Cella, University of Oklahoma; H. B. Chubb, University of Kansas; G. W. McGinty, Louisiana Polytechnic Institute; Charles N. Burrows, Trinity University; V. G. Sorrell, University of New Mexico; Walter Watson, Southern Methodist University.

Membership

Paul P. Young, Texas State College for Women, Chairman; Paul Milam, University of Arkansas, Chairman for Arkansas; Edwin O. Stene, University of Kansas, Chairman for Kansas; W. P. Carr, Loyola University, Chairman for Louisiana; O. R. Johnson, University of Missouri, Chairman for Missouri; Ralph Edgel, University of New Mexico, Chairman for New Mexico; Leonard Logan, University of Oklahoma, Chairman for Oklahoma; David W. Knepper, University of Houston, Chairman for Texas; Sam Barton, North Texas State Teachers College; J. D. Bragg, Baylor University; Herschel Coffee, West Texas State Teachers College; L. F. Connell, Texas College of Arts and Industries; Paul B. Foreman, Oklahoma A. and M. College; H. H. Guice, Southern Methodist University; Wendell C. Gordon, University of Texas; Seward Johansen, New Mexico State College; S. B. Kovacs, University of Tulsa; W. C. Nunn, Texas Christian University; Joseph O. Van Hook, Louisiana Polytechnic Institute

Local Arrangements and Publicity

Walter T. Watson, Southern Methodist University, Chairman; John M. Claunch, Southern Methodist University; E. J. Foscue, Southern Methodist University; Harvey H. Guice, Southern Methodist University; Jack Johnson, North Texas State College; C. H. Richards, Jr., Texas Christian University.

Institutional Memberships

C. J. Bollinger, University of Oklahoma, Chairman; S. A. Caldwell, Louisiana State University; John W. White, University of Arkansas; Dean C. S. Potts, Southern Methodist University; Earl McClendon, Sam Houston State Teachers College; Logan Wilson, Sophie Newcomb College.

Endowment

Raymond Thomas, Oklahoma A. and M. College, Chairman; Rupert Richardson, Hardin-Simmons University; W. E. Gettys, University of

Texas; S. B. McAlister, North Texas State Teachers College; R. J. Dangerfield, University of Oklahoma; Elmer Scott, Civic Federation of Dallas.

Resolutions

Emmette S. Redford, University of Texas, Chairman; Ethan Allen, University of Kansas; J. William Davis, Texas Technological College; J. L. Clark, Sam Houston State Teachers College; Wyatt Marrs, University of Oklahoma; J. L. Waller, Texas College of Mines and Metallurgy; Aldon S. Lang, Texas State College for Women.

Audit

John Arch White, University of Texas, Chairman; Joy Adams, University of Texas; B. F. Harrison, Oklahoma A. and M. College; Robert S. See, Centenary College.

Constitutional Amendments

John M. Calunch, Southern Methodist University, Chairman; Robert T. McMillan, Oklahoma A. and M. College; C. S. Potts, Southern Methodist University.

The Committee on Institutional Memberships announces that the following institutions have made financial contributions to the Association, and constitute the present list of institutional members:

Bethany College; Central State College (Oklahoma); College of Mines (Texas); East Central State College (Oklahoma); Hardin-Simmons University; Howard Payne Junior College; H. Sophie Newcomb Memorial College (Tulane); McMurray College; New Mexico State A. and M. College; University of Oklahoma; Oklahoma A. and M. College; Oklahoma Baptist University; Oklahoma City University; Oklahoma College for Women; Southern Baptist College (Arkansas); Southern Methodist University; The University of Texas; Texas Christian University; Texas State College for Women; Texas Technological College; Texas Wesleyan College; Trinity University (Texas); Municipal University of Wichita.